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THE RIGHT TO DEVELOPMENT

Written statement^{*} submitted by the Centre Europe Tiers-Monde (CETIM)
a non-governmental organization in general consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[27 December 1999]

^{*} This written statement is issued, unedited, as received from the submitting non-governmental organization.

1. In December 1997 the White House submitted to the chairmen of the congressional committees a new bill entitled, "African Growth and Opportunity Bill" which President Clinton termed a "partnership for growth" which should benefit "countries which strengthen their democratic regime, reform their trade regulations and enhance their human resources". The bill, has a nice name and a "clever slogan, 'Trade not Aid' but (...) is in fact an enormous benefits package for thriving multinational corporations and a threat to the very sovereignty of the sub-Saharan nations that sponsors of the bill say they want to help".¹

More than an attack on sovereignty, the bill is actually an economic, human, cultural and ecological disaster for African countries. Having failed to impose the Multilateral Agreement on Investment (MAI)² on the Organisation for Economic Co-operation and Development and the World Trade Organization, is the United States opting for a strategy of very short-term regional interests in order to force groups of countries to adopt this type of agreement?

2. It is important to know that this bill was devised by a coalition of transnational corporations, including Chevron, Texaco, Mobil, Amoco, Caterpillar, Occidental Petroleum and General Electric, which are firmly established on the African continent. Eager to conquer the wide-open markets of Africa and thus increase their profits, the heads of these transnational corporations succeeded in winning over the White House, which in turn convinced part of Congress and part of the Afro-American community, in particular Afro-American business circles. President Clinton, in his State of the Union Address on 27 January 1998, said that the bill would provide for the reduction or elimination of customs barriers for approximately 1800 products from the countries of sub-Saharan Africa.³ It all appears to be a subtle way of catching Africa in the nets of American-style neoliberal economic globalization.

3. However, the bill has been attacked by several NGOs working in Africa⁴ and the United States of America, and by a section of North American public opinion, which see it as a publicity device and a means for the transnational corporations to exert control over the African economies and natural resources.

4. After an intensive and difficult debate, the African Growth and Opportunity Act was initially approved by the House of Representatives (233 to 186) but subsequently blocked by the Senate. The White House's reaction was not long in coming. A fresh offensive began in January 1999, with the introduction of a new congressional bill entitled the Africa Trade and Development Bill, whose contents were basically no different from those of the original bill.

5. Before any aid request, every requesting African Government is required, inter alia, to:

Apply IMF structural adjustment programmes to the letter;

Apply for membership in WTO and comply with all WTO rules;

Grant "national treatment" to all economic actors; that is, the same treatment for local firms and transnational corporations;

Reduce "domestic" spending (health, education, environment ...);

Reduce drastically taxes on foreign and national firms,

Privatize public sectors and services,

Open the economy as much as possible to ownership or control over inputs, and particularly of natural resources, by foreign holding companies.

Not content to impose these policies on any countries which sign the agreement, the United States would like to impose them on all sub-Saharan countries if they want to have continued access to the American market in accordance with the tariffs previously applied (Generalized System of Preferences, GSP, 1974). Countries not meeting those conditions, or not wishing to accept the Africa Trade and Development Bill, would no longer have access to those tariffs, according to the new conditions.⁵

6. In view of its intentions, the Africa Trade and Development Bill is often called the "NAFTA for Africa". In fact, the NAFTA agreement now in force was originally presented as an instrument designed to strengthen the economies of the United States of America, Canada and Mexico based on the market economy and complete freedom of trade. However, its disastrous consequences, particularly in the area of employment, emerged within less than five years: 28,000 small and medium-sized Mexican businesses were driven to bankruptcy, approximately 1 million peasant families found themselves without employment, and the extreme poverty percentage rose from 30 per cent to 51 per cent of the population.⁶

7. Adopting the Africa Trade and Development Bill would amount to planning the deaths of millions of people. Not only would the African countries' sovereignty over their development policies be undermined, but the African stake in local economies and the continent's natural resources would be reduced. It is obvious that those who stand to benefit from the implementation of the "Clinton plan for Africa" are mainly the North American transnational corporations. It is worth noting that North American investors, especially those who will reap the benefits of the obligatory privatization of the public property and services of any African country which joins the agreement, are already guaranteed hundreds of millions of dollars.

8. In March 1998, President Clinton made his first visit to Africa, during which he repeatedly spoke of an "African renaissance",⁷ the trip also gave him the opportunity to showcase the so-called leaders of this new North American economic model in Africa; Congress was considering the first bill, the African Growth and Opportunity Act, at the time. He was accompanied by a large delegation chosen from financial and business circles, and one of his primary goals was in fact to obtain support from African leaders for this type of legislation and economic approach. However, despite the enticing picture painted of the advantages of adopting such an agreement, former President Nelson Mandela reacted publicly to the bill under congressional consideration by telling President Clinton, during his visit on 27 March 1998, that "this is a matter over which we [South Africans] have serious reservations ... To us this is not acceptable". It should also be pointed out that in the following months reactions were also felt in North American political circles, in particular from the Reverend Jesse Jackson.⁸

9. Nearly a year later, voices were again raised in opposition to the adoption of the Africa Trade and Development Bill, this time in Johannesburg in the framework of the

Preparatory Conference for the Establishment of an International Tribunal for Africa, held on 27 and 28 February 1999. After a discussion of the socioeconomic consequences of such an agreement, the 60 delegates attending the Conference not only decided to send a delegation to the United States of America to obtain support for their opposition to the Bill but also made a strong appeal for: (i) a complete cancellation of the external debt, (ii) a complete rejection of all structural adjustment projects, (iii) opposition to all privatization projects, (iv) respect for the principle of the right of all peoples and nations to exercise full control over their destiny, and (v) immediate closure of all foreign military bases on the African continent.

10 The Centre Europe Tiers-Monde (CETIM), concerned at the disastrous consequences which the adoption of such a bill would have, wishes to join the appeal made by the delegates to the Preparatory Conference for the Establishment of an International Tribunal for Africa. The adoption of the Africa Trade and Development Bill would in fact result in strengthening IMF and World Bank policies, which have demonstrated their ineffectiveness and harmfulness, forcing every African Government to join WTO, introducing monetary and investment policies similar to those proposed in the Multilateral Agreement on Investment and privatizing public property and services, with guaranteed access for transnational corporations.

11 Should it enter into force, therefore, this instrument would violate article 1 of the International Covenant on Civil and Political Rights, which stipulates, "All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development".

Notes

¹ The New York Times, editorial, 7 June 1998.

² The Sub-Commission dealt with the relationship between the MAI and human rights at its previous session: J. Oloka-Onyango and Deepika Udagama, "Human rights as the primary objective of international trade, investment and finance policy and practice", E/CN.4/Sub.2/1999/11.

³ A final system to that of the Lomé Convention, signed by the States of the European Union with the ACP (Africa-Caribbean-Pacific) countries, the renegotiation of which has got off to a bad start. Philippe Leymarie, "Washington à la conquête d'espaces vierges en Afrique", Le Monde diplomatique, March 1998.

⁴ Appeal by 35 Africa-based NGOs for the rejection of the bill: Alternative Information and Development Centre (AIDC), South Africa, Biowatch South Africa, South Africa, Campaign Against Neo-liberalism in South Africa, South Africa, Centre for Environmental Resources and Sustainable Ecosystems (CERASE), Nigeria, Centre for International Health and Policy, Zimbabwe, Congress of South African Trade Unions (COSATU), South Africa, Earthlife Africa, Durban Branch, South Africa, Environment Liaison Centre International (ELCI), Kenya, Epidemiology Research Unit, South Africa, Evangelical Lutheran Church in Tanzania, Tanzania, Foundation for Democratic Process (FODEP), Zambia, Foundation for Global Dialogue, South Africa Group for Environmental Monitoring, South Africa, Human Settlements of Zambia

(HUZA), Zambia, International Labour Resource and Information Group (ILRIG), South Africa, International Peoples Health Council (Africa Region), South Africa, International Socialist Movement, Western Cape, South Africa, ISODEC/Third World Network, Ghana, Journalists for the Environment and Development (JOPAD), Angola, Masifunde Education and Development Project, South Africa, National Progressive Primary Health Care Network (NPPHCN), South Africa Network for the Defence of Independent Media in Africa (NDIMA), Kenya, Organisation of Rural Associations for Progress, Zimbabwe, Paper Printing Wood and Allied Workers Union (PPWAWU), South Africa Partnership Management and Support Programme, Cameroon, South African New Economics Network (SANE), South Africa, South African Students Press Union, South Africa, Take Pride in Ghana, Ghana, The African Academy of Sciences, Kenya, The Mvula Trust, South Africa, Training and Research Support Centre, Zimbabwe Urban Services Group (USG), South Africa, WorldWide Africa, South Africa, Zambia Reconstruction Organisation (ZAMRO), Zambia, ZERO-Regional Environmental Organization, Zimbabwe

⁵ Lori Wallach (Public Citizen, Global Trade Watch), Treatment of GSP in Crane-Lugar Sub-Sahara Africa Bill, 20 May 1998

⁶ Transafrica, 28 prominent African Americans urge Senate to modify the African Growth and Opportunity Act, 1998, p. 6 (www.citizen.org/pctrade/Africa/transafr.htm)

⁷ At every stage of his trip, in South Africa, Botswana, Ghana, Uganda and Senegal, President Clinton spoke of an "African Renaissance".

⁸ Representative Jackson has introduced a counter-proposal to the White House's bill, entitled "H O P E for Africa Act", the acronym stands for "Human Rights", "Opportunity", "Partnership" and "Empowerment".



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INDIGENOUS ISSUES

Written statement* submitted by Centre Europe-Tiers Monde,
a non-governmental organization in general consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31

[27 December 1999]

* This written statement is issued, unedited, as received from the submitting non-governmental organization.

THE HUMAN RIGHTS OF THE INDIGENOUS PEOPLES OF MEXICO

According to official data, there are 8 million indigenous Mexicans (10 per cent of the total population of the country). However, various estimates from indigenous sources and research put the number of people who make up the indigenous peoples found in large areas of Mexican territory, and who have their own recognized social and cultural identity and language, at 15 million. These peoples are mostly concentrated in the States of Oaxaca, Veracruz, Chiapas, Puebla, Yucatán, Hidalgo and Guerrero, in many of which indigenous people make up over two thirds of the population.

The situation in which the native peoples have historically found themselves since the Spanish invasion of America is one characterized by submission and by political, social and cultural oppression, marked by inhuman conditions of marginalization, destitution and extreme poverty. Illiteracy, high infant and adult mortality rates, malnutrition, unemployment, overcrowding and the seizure of lands are among the features that typify the prevailing situation of the first inhabitants of Mexican territory.

The causes of the situation described very briefly above are many and interrelated. However, at least two of them can be identified as root causes. The first and most basic issue to be taken into account concerns a view of indigenous people that dates back to colonial times and persists to this day: in Mexico, as in the rest of the American continent, indigenous people are seen as people who are not in possession of all their faculties and who do not have all their "wits" about them, so that they are not considered "fit" to take decisions on their own future. Given this supposed deficiency, the State refuses to allow them to govern themselves according to their own rites and customs, to make their own political choices, to take care of their own business and to look after their resources. As a result, the Mexican State and society at large do not recognize indigenous people as subjects of law or as citizens, and indigenous peoples are denied their collective rights.

Because of this, we can say that until the Mexican Federal Constitution and the current legal system are adapted to the multicultural reality of the country and guarantee the recognition and full exercise of the rights of indigenous peoples, it will be difficult even to talk about the observance of the civil and political rights of those peoples.

In this context, there follows a list of recommendations designed to open the way to a change for the better in the situation of the indigenous peoples in Mexico:

1. The Mexican Government should comply with the international legal norms to which it has already acceded, including the International Labour Organization (ILO) Convention (No. 169) concerning Indigenous and Tribal Peoples in Independent Countries, the Convention on Biological Diversity, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

2 The Mexican Government should examine the draft instruments that would further the recognition of indigenous peoples, such as the draft United Nations declaration on the rights of indigenous peoples and the draft American declaration on the rights of indigenous peoples.

3 The Mexican Government should ensure the effective implementation of the San Andrés accords on indigenous rights and culture, signed in 1996 by the National Liberation Zapatista Army (EZLN) and the federal Government.

4 The Mexican Government should act to put a stop to the increasing militarization of the regions in the country with the largest indigenous population, such as the states of Oaxaca, Chiapas and Guerrero.

5 The Mexican Government should undertake, and should take specific measures, to investigate serious violations of the human rights of indigenous communities at the hands of paramilitary groups, and should put an end to the impunity that prevails in areas with similar conflicts (especially Chiapas, Guerrero and Oaxaca).

6 The Mexican Government should make it possible for indigenous peoples to pursue the establishment of autonomy at any level, as an exercise in self-determination, which means taking into account at least the following four essential elements

- (a) A political and territorial base,
- (b) A jurisdiction of their own, corresponding to the specified territorial area, within which government and justice are administered,
- (c) Self-government or autonomous government,
- (d) Their own powers or authority, whether exclusive or shared with other government bodies (federal, state) that shape the political decentralization crucial to any autonomous regime, all of which should be constitutionally and legally regulated within the legal framework of the State

7 The Mexican Government should follow through on the various declarations of the international community, the European Parliament, the United Nations High Commissioner for Human Rights, international human rights organizations and other bodies concerning the situation of the indigenous peoples in Mexico.

. . .

The current situation of the communities in indigenous areas and, by extension, in the rest of the states of the Mexican Republic has deteriorated recently, as has been revealed by various institutions and organizations from Mexican and international civil society. During its second visit to assess the situation in Mexico, from 15 to 25 November, the International Civil Commission for the Observation of Human Rights (CCIODH), with 40 members from 10 countries, held talks with all those involved in the conflict: the Government, civil society and

opposition indigenous communities, mostly in Chiapas. It was observed that there had been a worsening of the situation of the indigenous population and a deterioration in living conditions and human rights violations.

There are now some 20,000 people displaced by paramilitary violence who are living in camps, away from their villages and lands, unable to return to their homes after two years of flight and suffering from the military presence and paramilitary violence, which prevents them from returning under reasonable conditions. Their situation has become untenable. Sometimes depending for food on international aid delivered by the International Committee of the Red Cross, they have been abandoned to their fate.

Impunity is rife and strikes fear and terror into the heart of the communities, for example, many of the Acteal killers are still at liberty, walking the streets with guns and terrorizing the survivors, while the masterminds behind the killing have not been accused or brought to trial. This impunity encourages the paramilitary groups to carry on with their activities.

The presence of over 70,000 soldiers in Chiapas (the number of soldiers and military facilities is growing all the time) is affecting the daily life of the communities, who have to put up with checkpoints, the occupation of their lands and interference with their traditional power structures, leading to imprisonment and arrests.

All these observations are based on evidence included in the report handed over to the European Parliament on 14 December by a delegation from the Commission, which believes that international monitoring of the observance of human rights is fundamental to the fulfilment of the agreements signed by the Mexican Government and that there should be regular, permanent and effective instruments, involving Mexican and international civil society, to ensure they are fulfilled.

The expulsion of international observers and the threats against Mexican non-governmental organizations effectively remove the witnesses who speak on behalf of the victims of these violations and show that the Mexican Government lacks the will to comply with the agreements in an open and trustworthy manner, for which it has been denounced in various forums and institutions.

The adoption of the San Andrés accords and their translation into the legal form of a constitutional amendment, in accordance with the plan prepared by the Concord and Peace Commission (COCOPA), would be the first steps towards opening up a dialogue in the search for a peaceful, fair and dignified solution to the conflict.

. . .

As stated in a document prepared by various Mexican civilian and social organizations in a review of the third periodic report of the Mexican Government (1992-1996):¹

"Our country is experiencing a serious deterioration in the general living conditions of a growing number of Mexican men and women, largely as a result of the structural adjustment policies implemented in the last 17 years, which give priority to the

stability of macroeconomic indicators and the market rather than the well-being of the population. This deterioration has become more pronounced since the entry into force of the North American Free Trade Agreement (NAFTA) in 1994. These policies - in their design, execution and consequences - have clearly been shown to be incompatible with the objectives and spirit of the International Covenant on Economic, Social and Cultural Rights, as they merely exacerbate the economic and social inequalities in the population."

The policies for targeting social spending that have guided the national anti-poverty programmes implemented in recent years are of an exclusive nature; they merely provide assistance and act as palliatives. There are no proposals to root out the structural causes of poverty. This kind of programme - for example, the Education, Health and Food Programme (PROGRESA) mentioned by the Mexican Government in its third report to the Committee - is used for political and electoral purposes, reinforcing discrimination and holding up the creation of the kind of truly democratic system that is vital for social development.

Poverty hits rural populations hardest, especially the 10 million or more indigenous Mexicans. It is unacceptable that some of the Mexican states that are richest in natural and cultural resources (such as Chiapas, Guerrero, Oaxaca and Veracruz) should have the highest levels of poverty and exclusion in the country. This situation is getting worse in some communities where institutional violence persists, as reflected in the systematic violation of human rights and the impunity which has prevailed for many years in, for example, Chiapas - where it has worsened since the beginning of the armed conflict in 1994.

Note

¹ Third periodic report of Mexico, E/1994/104/Add.18. Alternative report by Mexican civil, social and network organizations to the third periodic report of the Mexican Government to the United Nations Committee on Economic, Social and Cultural Rights, October 1999.



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**QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL
FREEDOMS IN ANY PART OF THE WORLD**

Joint written statement* submitted by the Centre Europe-Tiers Monde (CETIM), a non-governmental organization in general consultative status, the International League for the Rights and Liberation of Peoples, the American Association of Jurists and the Society for Threatened Peoples, non-governmental organizations in special consultative status, and FIAN - Foodfirst Information and Action Network, a non-governmental organization on the Roster

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[28 December 1999]

* This written statement is issued, unedited, as received from the submitting non-governmental organizations.

**The Chad-Cameroon oil and pipeline project and
its impact on the enjoyment of human rights:
heading for another Ogoniland?**

In a context of non-existent or seriously inadequate national and international legislation regulating the activities of transnational corporations (TNCs), CETIM reiterates its concern about massive violations of human rights brought about by these corporations, with cooperation from States of the North and the South alike. The oil sector provides eloquent examples of this.

Considering that plans for the Chad-Cameroon oil and pipeline project are now at an advanced stage, we believe that this statement may usefully complement and update the submission by the International League for the Rights and Liberation of Peoples to the Sub-Commission (E/CN.4/Sub.2/1998/NGO/5).

The latest developments

Up until 9 November 1999, the oil company consortium was composed of Esso (Exxon), Shell and Elf Aquitaine. For unexplained reasons, Shell and Elf decided to withdraw from the consortium.

The project is shortly to be submitted to the World Bank's Board of Executive Directors for approval, the Bank having been requested to grant two loans to the Chad and Cameroon Governments. Approval would provide a strong incentive to private investors and should enable them to secure guarantees against export risks by government agencies.

The problems caused by this mammoth project are of various kinds. For one thing, in the present political context, there is every reason for scepticism about the project's prospects for socio-economic development as it will affect the populations of the two countries; for another, the project's direct impact on local populations and the environment gives cause for serious concern. Moreover, current curbs on the civil and political rights of opponents to the project are disturbing, to say the least.

1. Obstacles to the project's positive socio-economic impact

Widespread corruption and political context

Both the Chadian and Cameroonian Governments have the sorry reputation of being riddled with corruption. In Chad, according to some of the local daily newspapers, several ministers, after being dismissed for involvement in the misappropriation of development aid, have subsequently been appointed to key political positions and have never had to pay back the embezzled funds. There seems to be total impunity and widespread corruption, even at the highest level.

Cameroon has recently been classified as the most corrupt country in the world by the group Transparency International,¹ for the second time. In fact, Cameroon's current oil resources are not accounted for in the State budget and there is no provision for any plan for the management of future oil revenues.

It is quite obvious, however, that there is no corruption without corrupters. On this subject, a confidential report to the French Ministry of Cooperation is quite clear about the part played by French oil companies in concealing the use made of oil revenues and worsening corruption on the African continent (cf. the Elf Gabon scandal).²

In Chad, Elf's financing of the campaigns of presidential candidates has been reported time and again.³

The way in which the Chadian Government is fulfilling the World Bank's "transparent" management requirements offers no guarantees. On 30 December 1998, the Chadian Parliament passed what was termed the law on the management of oil revenues, providing in substance that 90 per cent of direct oil revenues would be paid into a frozen account purportedly to be used only for educational, development and health schemes. A commission called the "Disbursement Commission" was to be in charge of authorizing any withdrawal of money from the account. But five of its nine members are government officials and two others, respectively, a member of Parliament and a senator. As to the only two representatives of civil society, a trade unionist and an NGO representative, no mention is made of the manner in which they are to be selected, which leaves a serious loophole.

Furthermore, the law provides that only 4.5 per cent of direct oil revenues will go towards the development of the region in which the oil is produced. Depending on the way in which that zone is defined, it may encompass up to one third of the Chadian population, and nowhere is it specified on what conditions and for what types of project the money can be used.

By going along with such practices, which are common knowledge, the World Bank would give even more credence to the arguments of those who criticize it for lack of transparency in its management of development funds and its important role in the perpetual indebtedness of most of the countries of the South.

Risk of a resumption of civil war in Chad

For over 30 years, Chad was the scene of a bitter civil war. Many local NGOs and also foreign observers fear that oil extraction in the south will exacerbate existing socio-political tensions or even trigger a resumption of the conflicts.

Job creation

One of the arguments frequently put forward by the Governments and the World Bank is that the project will have a positive impact on the labour market. But in fact experience has shown that the overwhelming majority of jobs created by this kind of oil project are in the casual and unskilled category.⁴ Meanwhile, there has already been a heavy influx of hopeful job-seekers into the region (over 5,000 to date, even though the project has not yet started). No mitigation measures have been taken, and the arrival and settlement of the migrants are already causing problems with the local farmers.

In the current political environment, far from helping to alleviate poverty, there is every likelihood that, as many similar examples have shown, the injection of new money will line the pockets of just a few and exacerbate armed power struggles.

2. Direct violations of economic, social and cultural rights

Violation of local populations' right to adequate food caused by the loss of land and trees

In the oil extraction area pipelines will link the 300 production wells to pumping stations; all along the 1,050 km-long pipeline route, an area of 30 to 60 m in width will be temporarily unusable. Considerable expanses of cropland will be temporarily unusable for cultivation and large numbers of trees will have to be felled, which will seriously affect the ability of some farmers to produce their own food. The compensation offered them is often ridiculously small, will not make up the shortfall, and in many cases is less than the official amount of compensation provided for in the compensation plan. The value of the trees for which compensation is payable, calculated by Esso in Chad, has been systematically underestimated: the set amounts of compensation are 5 to 20 times lower than the actual value as calculated by independent Chadian agronomists. No compensation will apparently be paid for the clearing of the rainforests used by the Pygmy populations in Cameroon.

And yet these woodlands represent a substantial part of the livelihood of populations who already have difficulty in eking out a subsistence. It will take many years before the balance can be restored; the shea-tree, for example, takes 15 years to bear fruit. It should be noted that "compensation" has been paid to the farmers even though the project has not been finally endorsed and also that it has been paid without any regard for local social realities.⁵

In Cameroon, the future of thousands of Bagyeli Pygmies is at risk because of the absence from the Plan for the Indigenous Populations of any mechanisms for recognizing the rights of the populations to the agricultural forest lands. Considering the Cameroonian Government's attitude towards the Pygmies in the past, there is reason to doubt its will to manage the situation. The construction of the pipeline will mean that these populations will lose part of their means of subsistence.

Violation of the right to food potentially caused by pollution

Neither the Chadian nor the Cameroonian Government, nor indeed Esso, has made any provision for an oil spill response plan. Moreover, some of the waste water from the drilling operations is to be pumped out, untreated, into the surrounding land.

The following facts should be borne in mind:

- The oil-fields are located on mainly agricultural land. Loss of soil fertility would have dire consequences for the population's subsistence. In Chad, the oil extraction area is one of the most fertile parts of the country, and a decline in production in the region would jeopardize food supplies throughout the country.

- Fishing resources are also of the utmost importance in the region. In Chad, the rivers crossed by the pipeline run through the south of the country and then into the Logone river, which flows into Lake Chad. In Cameroon, the pipeline will cross 17 major rivers, including the Sanaga, which together form one of the largest river systems in Africa. Pollution of the rivers and coastlines in the oil extraction area would therefore have disastrous repercussions on fish supplies in both countries, jeopardizing the inhabitants' right to adequate food.
- Access to drinking water is also under threat, since most of the population's drinking water comes from shallow groundwater and sometimes from the rivers. Any contamination of these water resources would have a dramatic impact on the nutrition and health of much of the population.

In conclusion, it is no exaggeration to say that, under the present circumstances, the project jeopardizes the right of the local populations to adequate food. It is incompatible with the concept of sustainable development, which places emphasis on local agricultural production as an essential means of meeting basic needs, supplanting this by potentially risky oil extraction that will serve only short-term interests.

3. Violations of civil and political rights

The situation of civil and political rights in Chad is serious. Amnesty International has reported massacres of unarmed civilians in the oil-producing area over the past two years, and the European Parliament expressed its concern in a resolution in June 1998.

Opponents of the oil project have been repeatedly threatened and the situation has worsened since the withdrawal of Elf and Shell from the consortium. Since the project was launched, the local populations have not been kept adequately informed.

Military personnel were constantly in attendance during the consultation process, and systematically escort Esso officials on their travels.

Some examples

- The Chadian member of Parliament Ngarledji Yorongar was arrested, tried and convicted of libel for publicly criticizing the manner in which the project was being conducted. He was detained from 3 June 1998 to 5 February 1999.
- The traditional chiefs of the region who met in Bebedjia for a seminar from 5 to 7 October were forced to take part in a pro-oil demonstration under threat of detainment.
- On 23 October 1999, in Bebedjia, during preparations for a visit by the Executive Head of the World Bank, the Prefect of Doba threatened any persons publicly venturing to express their opposition to the project with arrest and imprisonment.

- On 24 and 25 October 1999, two members of the coordinating committee of the Entente des Populations de la Zone Pétrolière (EPOZOP) (Alliance of Populations in the Oil Extraction Area), namely Mathias Mbeuryom and Urbain Moyombaye, were detained for questioning by the Prefect of Doba. EPOZOP's purpose is to protect the interests of the populations of the region. The Prefect verbally ordered them not to continue their activities.

Recommendations

In view of the above, CETIM requests the Commission on Human Rights to make representations to the Chadian and Cameroonian Governments so that they:

- Undertake to protect opponents of the oil project from physical and mental assault, and to protect their fundamental freedoms;
- Associate the representatives of local populations in decision-making on the project.

Furthermore, CETIM requests the Commission on Human Rights to appeal to the member countries of the World Bank to suspend any loan agreements for the project in question until a detailed independent study can be carried out on the project's impact on local populations and the environment.

Other documents

Environmental Defense Fund, Korinna Horta, *The World Bank and Chad Cameroon Oil and Pipeline Project. Makings of a New Ogoniland? Corporate Welfare Disguised as Aid to the Poor?* February 1997

Esso, *Environmental Assessment Plan, Chad Export Project*, Esso Exploration and Production, Chad, October 1997 (pp. 7-30, Water quality)

Notes

¹ In the "1999 Transparency International Corruption Perceptions Index (CPI)", Cameroon ranked lowest in a list of 99 countries, with a corruption index of 1.5 out of 10, the figure 10 representing negligible acceptance of bribes and 0 representing very high levels of corruption.

www.transparency.de/documents/cpi/index.htm

² Jean-François Bayart, *La criminalisation en Afrique subsaharienne*, a report by the Ministry of Cooperation's Analysis and Forecasting Centre, June 1995, quoted by Daniel Carton - "Lock this report up in your drawer" - in *Le Nouvel Observateur*, 10 May 1996.

³ Agir ici, Amis de la Terre, *Projet pétrolier au Tchad et au Cameroun, Banque Mondiale: Pompe A l'afrique des compagnies pétrolières*, July 1997, p. 29.

⁴ Advisory review of the environmental assessments of the Chad export project, Commission for Environmental Assessment of the Netherlands Ministry for Development and Cooperation, July 1998, p. 4.

⁵ CILONG, NGO Information and Liaison Commission, Permanent Oil Commission, study on compensation and indemnification measures, September 1999.



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**RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL FORMS
OF DISCRIMINATION**

Written statement submitted by the Commission of the Churches on International Affairs
of the World Council of Churches, a non-governmental organization in special
consultative status

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accordance with Economic and Social Council resolution 1996/31

[21 January 2000]

1. The Commission of Churches on International Affairs of the World Council of Churches appreciates the work undertaken by this Commission towards elimination of racism, racial discrimination, xenophobia and all forms of discrimination. Over the years the World Council of Churches through its programmes and policies has consistently worked towards removal of inequalities and discriminatory policies and in this way has contributed to the strengthening of the United Nations in its endeavours to ensure justice and equity for all people as they enter the new millennium. In relation to one such programme, the Commission of Churches on International Affairs cooperates with the Dalit Liberation Education Trust, in Chennai, India, that works for upliftment of Dalits.

2. The United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance in his last report (E/CN.4/1999/15 and Add.1) raised the issue of untouchables in India and expressed hope that he might visit the country soon to study the situation. The Special Rapporteur on religious intolerance while on a visit to India was aware of the issue of Dalits and Dalit Christians and raised it with the authorities, including the Secretary of the Ministry of Law of the Government of India, who acknowledged the "loss of privileges" of Dalit Christians (E/CN.4/1997/Add.1, para. 61). The Special Rapporteur was told at that time that a proposal to address the demands of Dalit Christians was before the Parliament. It is regretted that the Government of India has yet to introduce the proposed legislation. The World Council of Churches appreciates that due notice has been taken of this inhuman and degrading system and practice by the Special Rapporteurs.

3. Over 200 million Dalits in India have been subjected to discrimination, discriminatory practices and violence not only because of socio-economic factors but also as a result of religious intolerance. The Dalits, who are mostly landless agricultural labourers, live in abject poverty and suffer oppression and discrimination at the hands of rich and powerful landlords. Denied the right to development they are constrained to live in segregated quarters in inhuman conditions. In the words of their great leader Dr. B.R. Ambedkar, they live and survive in "dehumanizing conditions".

4. For the last 2,000 years the Dalits have continued to suffer humiliation and ill-treatment despite the fact India is the world's largest democracy with a progressive, secular and liberal constitution. At present 20 million Dalit children from socially oppressed and economically poor families work in hazardous industries; some work as bonded labourers, some are sexually abused and exploited. Denied the right to human development and socially excluded, the Dalits have little or no opportunity to provide an adequate and decent education for their children.

5. The living conditions of the Dalits have been aptly described by the former Chairman of the National Commission for Scheduled Castes and Scheduled Tribes, Mr. H. Hanumanthappa, in the following terms:

"The Dalits are in different stages of socio-economic development and are engaged in divergent forms of work for their living. The practice of such traditional unclean occupations as scavenging, carrying night soil, removing dead animals, leather work, beating of drums, etc. gave them a low position in the traditional caste hierarchy and they are viewed as occupying the lowest rung of the social ladder. The vast majority of Dalits are landless and work as agricultural labourers and wage earners to eke out their

livelihood. Dependence on upper-class land owners for agricultural labour and perpetual subjugation force many of them to live as bonded labourers. On the educational front the scheduled castes lag far behind the general population of India. The general literacy rate in 1991 was 52.19 per cent, while the literacy among the scheduled castes was only 37.41 per cent. The condition of the Dalit women is particularly deplorable. They are doubly underprivileged being women belonging to a scheduled caste. They constitute the major work force doing hard manual labour and engage in agricultural operations and their exposure to outdoor work and interaction with cunning employers make them vulnerable to sexual exploitation. Abject poverty forces Dalit women to become Devadasi, the prevalent institutionalized prostitution system."

6. The recently released annual report of the National Human Rights Commission (NHRC) also draws attention to the sufferings and humiliation of the Dalits. It makes the following observations with regard to the degrading treatment meted out to them:

"The Commission considers it deeply offensive to human dignity that the degrading practice requiring the manual handling of night soil is still allowed to continue in our country, 50 years after independence. Despite the launching of a nationwide scheme in March 1992 to free those engaged in such work, and to rehabilitate them in other occupations, implementation has remained dismal."

Though the scheme was approved in 1993, there has been for all practical purposes little or no follow-up action by the authorities concerned. NHRC rightly points out that when it comes to weaker sections of society there is a tendency to relapse into inaction, be it because of undertaking mega-projects, or as a result of economic policies that have the effect of marginalizing the most vulnerable sections of society.

7. In August 1996, NHRC, in cooperation with the Dalit Liberation Education Trust, sponsored a workshop on the situation of Scheduled Castes and Scheduled Tribes. The workshop in its report observed that despite the existence of the Protection of Civil Rights Act, 1976 violations of the human rights of Dalits have increased. The implementation of the provisions of the Act has left much to be desired; investigations of atrocities against Dalits have often found to be inadequate or biased. The rate of conviction of perpetrators is low and there is a need to plug the loophole in the law that allows the situation to continue. The frequency of atrocities resulting from disputes over land has increased and there is a need to implement land reforms diligently. The workshop called for greater sensitization of government agencies like the judiciary and law enforcement to make them more aware of the special problems posed in protecting the rights of Dalits.

8. In recent years, atrocities and violence against the Dalits have increased enormously. Attention to this problem has also been drawn by reputed periodicals and journals both inside as well as outside the country. The 20 October 1997 issue of *Time* magazine carried a cover story on the increase of violence against Dalits. This situation was also highlighted in an article that appeared in the 11 August 1997 issue of the daily *Hindu*. The article was written by a well-known Indian journalist, Prem Shankar Jha. In 1995 the number of reported cases of atrocities committed against the scheduled castes in the country was 35,262. These included 688 cases of murder, 2,156 cases of grievous hurt, 1,143 cases of rape and 729 cases of arson. The

maximum number of 14,966 cases of atrocities was reported from the Uttar Pradesh followed by Rajasthan (5,204 cases) and Madhya Pradesh (4,387 cases). Together these states accounted for 69 per cent of the total reported cases of atrocities in the country against the Dalits. According to the Dalit Liberation Education Trust "Every hour two Dalits are assaulted, every day three Dalit women are raped, two Dalits are murdered and two Dalit houses burnt". It is the responsibility of the Government of India to ensure that state governments respect human rights and stop repression of the Dalits by the state police.

9. The present deplorable situation of the Dalits cannot be allowed to continue as the international community enters the new millennium. The Dalits are entitled to protection and equal treatment before the law. Article 27 of the International Covenant on Civil and Political Rights states "In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language". The Dalit Christians in India are being denied equal rights and opportunities because of the discriminatory practices and policies of the Government of India.

10. The Commission of Churches on International Affairs calls on the Commission on Human Rights to request the Special Rapporteur to undertake a study of the discrimination and discriminatory practices and policies based on untouchability and the caste system as a contemporary form of slavery in the South Asian region.



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COMMISSION ON HUMAN RIGHTS
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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL
FREEDOMS IN ANY PART OF THE WORLD

Written statement submitted by the Commission of the Churches
on International Affairs of the World Council of Churches, a
non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in
accordance with Economic and Social Council resolution 1996/31.

[21 January 2000]

1. The Commission of Churches on International Affairs (CCIA) of the World Council of Churches (WCC) commends the United Nations Commission on Human Rights for its call, made at the special session held at Geneva in September 1999, upon the Secretary-General to establish an international commission of enquiry to gather information on possible human rights violations committed in East Timor. The action was timely. During that period, CCIA received regular reports of an increase in human rights violation by the militias and the Indonesian security forces. Just before the special session was convened, the United Nations Commissioner for Human Rights said: *"There is overwhelming evidence that East Timor has seen a deliberate, vicious and systematic campaign of gross violations of human rights"*. The extensive violence in East Timor could not have been possible without the connivance of the Indonesian military (TNI). The international community has witnessed with concern the developments in East Timor and now eagerly awaits the report of the International Commission of Inquiry as well as of the other United Nations mechanisms.

2. CCIA has a long history of involvement and concern for human rights not only in East Timor but also in other parts of Indonesia as well. At the Vth WCC Assembly held in Nairobi in 1975, around the time the Indonesian forces invaded East Timor, the World Council of Churches expressed its deep concern over the deterioration of the situation in the territory. It reaffirmed the rights of all people to self-determination. This concern has continued. The Council, together with its member Churches, has monitored the situation, not only in East Timor but also in Irian Jaya and Aceh.

3. In the aftermath of the Dili massacre WCC sponsored an international ecumenical delegation to visit East Timor in April 1992. The visit took place at the invitation of its members, Gereja Kristen di Timor, Timur (GKTT) and the Communion of Churches in Indonesia (PGI). The delegation met, amongst others, with officials of the Indonesian Government, representatives of the NGO community in East Timor and Msgr. Carlos Ximenes Belo, the Apostolic Ambassador of the diocese of Dili. They visited Santa Cruz cemetery to pay homage to the East Timorese killed in this tragedy. In their report, titled "Not by Bread Alone", the delegation observed: "... team members could not escape the impression that pervasive military control over the administrative, social, economic and political life constitutes a serious source of tension and longstanding resentment". They therefore recommended "that the churches in East Timor be encouraged to facilitate legal and other assistance for the victims of human rights violation as well as provide pastoral care and concern for the families of victims". Over the years CCIA has continued to work with the Churches in Indonesia in relation to the above concerns and has provided support and assistance to victims of human rights violations and their families.

4. The developments in Indonesia since the May 1998 riots in Jakarta, in which 1,198 people lost their lives, including 27 killed by gunfire, and 168 women were reported to have been raped, have been a major concern of the Churches. During the past year, the situation has deteriorated in Aceh and Irian Jaya, apart from the developments that have taken place in East Timor. In the post-referendum period a small minority supported by TNI organized militias in the 13 provinces of East Timor. They played havoc with the lives and property of the people - killing, burning and forcing people to flee for safety to the hills and to West Timor. To date more than half the population of 800,000 have not returned owing to fear. A large number remain in the hills, while some have sought sanctuary in different parts of Indonesia.

Over 200,000 are in the camps of West Timor where conditions remain poor. Out of the 28 pastors of GKTT Church, the whereabouts of 24 are not known. The church building and property have been destroyed.

5. CCIA is also concerned at the upsurge in communal violence in the country. According to reports of the Indonesian Christian Communication Forum an average of 14 churches were destroyed every year between 1967 and 1998; destruction was stepped up with 87 churches being the victims of arson during the first eight months of former President Habibie's term of office. Since mid-January 1999 there have been intermittent waves of destruction in the port city of Ambon where Christians and Muslims have long lived side by side in peace. The situation continues to be tense, with regular reports of clashes between Muslims and Christians and burning of places of worship. Recently, the chief spokesman for TNI, Major General Sudrajat, said that the military was considering declaring a state of civil emergency in the devastated Ambon island chain. He admitted that some troops had taken sides in religious clashes and went on to add that the Governor of Moluccas had requested the central Government to declare the status, one stage down from martial law. According to member Churches of the Council over 2,000 people have been killed, 8,000 Christians rendered homeless and 54 churches destroyed since the rioting began in the province. Throughout the crisis, TNI personnel have sided with the Muslims. This was brought to the attention of the Government, but to date no action has been taken. There have been reports that sections of TNI were instrumental in fanning the fires of the communal violence that resulted in grave and serious human rights violations. The Government to date has failed to bring the culprits responsible before the courts of law.

6. The situation of the ethnic Chinese minority in Indonesia is of concern to the members of the World Council of Churches. Since the May 1998 riots in Jakarta the Chinese community has lived in fear. It has not recovered from the trauma of seeing mobs rampage through the streets, burning buildings around them, with rumours that more was to come. Though the Indonesian Constitution guarantees equal rights to all citizens regardless of position/rank, religion or background, the New Order Government that captured power in the 1960s systematically suppressed the civil and political rights of the Chinese ethnic community. These discriminatory policies and practices persist, forcing the ethnic Chinese community to live in an environment of uncertainty and insecurity. Despite government pledges to bring to trial those responsible for having committed atrocities against the Chinese minority, no one has been brought to justice and punished.

7. In Irian Jaya, during the last 35 years over 500,000 Irianese have been killed. With its policy of transmigration and forced assimilation, the government has perpetuated injustice, oppression and exploitation of the people in Irian Jaya. As a result of the Government's programme of transmigration, undertaken in conjunction with the integration process that still goes on, more than 600,000 Indonesians have been relocated from other parts of Indonesia since 1964, further weakening the proportional strength of Irian Jaya's indigenous population. As in East Timor the army dominates the civil, political and economic life of the region. It has brutalized the people and has indulged in gross human rights violations as a consequence of which the majority of the people now demand the right to self-determination.

8. As a result of Indonesia's integration and the associated transmigration programme for Irian Jaya there has been a comprehensive record of human rights violations - from the denial of

economic, cultural and religious rights through to detention without trial, torture and extrajudicial killings. At the economic and cultural level the effective confiscation of vast tracks of land for forestry, palm oil plantations and mining has not only denied indigenous landowners the right to use their traditional cropping practices, it has also deprived them of their economic base.

9. The situation in Aceh continues to be grave. Over the years Acehenese have been subjected to regular and systematic abuse by the military. The practices of harassment, torture and detention without trial are matters of daily occurrence. There is no remedy against the system as the military remains the sole arbiter of people's rights.

10. The human rights situation in Indonesia can be improved if there is a resolution of the present ongoing conflicts. To achieve this the Government of Indonesia must undertake the following:

- Restoration of the rule of law by setting up an independent judicial system;
- Apprehension and trial of those involved in ethnic and communal violence;
- Enactment of legislation giving greater autonomy to the provinces;
- Withdrawal of the military from Aceh and Irian Jaya;
- Accountability of military officers responsible for human rights abuses;
- Encouraging interreligious dialogue for conflict resolution and the prevention of human rights violation in Ambon.



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COMMISSION ON HUMAN RIGHTS
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**CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF:
RELIGIOUS INTOLERANCE**

Written statement submitted by the Commission of the Churches on International
Affairs of the World Council of Churches, a non-governmental organization in
special consultative status

The Secretary-General has received the following written statement which is circulated in
accordance with Economic and Social Council resolution 1996/31.

[21 January 2000]

1. The Commission of Churches on International Affairs (CCIA) of the World Council of Churches, since its inception, has done extensive work in relation to the issue of religious freedom. Religious intolerance has a direct impact on this fundamental human right and is therefore a major concern of the Council and its member Churches. Over the years CCIA has wrestled with the phenomenon of religious intolerance, particularly in situations where minority religious communities have suffered at the hands of religious communities with political and juridical power. As far back as the late 1970s, the Executive Committee of the World Council of Churches warned of an increase in the trend towards religious intolerance in the following words: "In an increasing number of countries, communal and national aspirations are framed not in secular but religious terms, creating the climate for religious revival of a type which causes friction between dominant religious forces and minority religions." The situation today is far worse than it was 20 years ago. With religion playing a crucial and dominant role in the civil and political life of many a country, incidents of religious intolerance are on the increase, creating tensions and conflicts within societies.

2. At a consultation on "Human Rights and the Churches: New Challenges" organized by CCIA at Morges, Switzerland, in June 1998, the participants noted: "As Christians we are called to share in God's mission of Justice, Peace and Respect for all Creation and to seek for all humanity the abundant life which God intends. Within scripture, through tradition and from the many ways in which the spirit illumines our hearts today, we discern God's gift of dignity for each person and their inherent right to acceptance and participation within the community." CCIA has promoted equality of all persons and is of the firm conviction that human rights and human dignity of all persons irrespective of class, colour or creed need to be promoted through the exercise of tolerance, respect and appreciation of each other's religion or belief.

3. The VIIIth Assembly of the World Council of Churches, held in Harare from 3 to 14 December 1998, issued a Statement on Human Rights in which it reiterated its concern at the growing incidence of religious intolerance and its impact on the basic human rights of the people in the following terms: "Religion in our contemporary world increasingly influences socio-political processes. Many churches actively participate in peace-making activities and call for justice, bringing a moral dimension to politics. Yet, religion has become a major contributor to repression and human rights violations, both within and between nations. Religious symbols and idioms have been manipulated to promote narrow nationalist and sectarian interests and objectives, creating division and polarized societies. Powers increasingly tend to appeal to churches and other religious groups to support narrow national, racial and ethnic aims, and to support discriminatory legislation which formalizes intolerance. We urge the churches once again to give evidence of the universality of the gospel and to provide a model of tolerance to their societies and to the world. Religion can and must be a positive force for justice, harmony, peace and reconciliation in human society." Religious intolerance promotes violence and destruction, giving rise to fear and insecurity which negates the gift of life, the sanctity and dignity of all creation. Through its programmes and policies the World Council of Churches encourages its members to work for creation of an environment of tolerance in which a culture of non-violence can be nurtured - a non-violent culture that is conducive to the development of

new and appropriate approaches to conflict resolution and peace-keeping in the emerging globalized context. In this connection, the World Council of Churches has recently embarked on a Decade to Overcome Violence programme.

4. CCIA is deeply concerned at the increase in the number of incidents of religious intolerance in recent years. As a fellowship of Churches around the world, the Council receives regular reports of people who have become victims of violence as a result of religious intolerance. Religious intolerance and restriction of religious freedom have grown universally. The freedom of citizens to choose and practise the belief of their choice has now become more and more restricted. The pluralist base of the State is under widespread attack and religious extremism and intolerance are on the rise.

5. At the fifty-sixth session of the Commission on Human Rights, CCIA has submitted a written statement on the situation arising in Pakistan as a result of indiscriminate applications of the blasphemy law against Christians. That law remains on the country's statute book despite protests and appeals both within and outside the country for its repeal. The concerned authorities in Pakistan, despite assurances, have neglected to amend even the procedural part of the law in order to prevent its abuse. The fires of intolerance of religious minorities have been kept burning by extremist religious forces that are helped by the officials and the organs of the State. Though there has been some reduction in the registration of fresh cases, by and large the situation remains unchanged because of the prevalent environment of hostility and intolerance of religious minorities. At present a number of Christians charged under the blasphemy law are in jail pending trial by the courts. The 1998 Annual Report of the Human Rights Commission of Pakistan has documented these cases. According to the report intolerance in Pakistani society is on the increase and the authorities have made no effort to check it. On the contrary, official actions and pronouncements often tend to encourage this trend.

6. CCIA has also been concerned at the developments in Indonesia since the May 1998 riots that brought about the downfall of former President Suharto. The Council, through regular visits of pastoral delegations and staff as well as through consultation with member Churches in the country, has kept itself informed of the situation. CCIA is particularly concerned about the situation in the port city of Ambon where Christians and Muslims have long lived side by side in peace. In the recent past many churches and mosques have been destroyed. Hundreds of Christians and Muslims have been killed in the wave of destruction that began in mid-January 1999 and continues till date with no visible signs of coming to an end. The severity of the clashes and violence in Ambon could have been avoided if the Indonesian military had remained non-partisan and discharged its duty of restoring law and order in the region seriously. CCIA is of the considered view that to restore intercommunal peace and harmony it is necessary that the Government of Indonesia encourage dialogue between the two communities. The Christians in Indonesia are willing to enter into such a dialogue. This is evident from the Christmas message of The Communion of Churches in Indonesia. The message says, "That the Christmas event gives us the inspiration to continuously endeavour [to establish a] relationship and cooperation with all national components in building a new united, peaceful, just and prosperous Indonesia, which gives [a] place to plurality and appreciates human dignity."

7. CCIA reiterates its concern: at the increase in incidents of conflicts between religious minorities and majorities; at attempts by Governments to control and regulate religions and religious organizations; at the use of political institutions by one religion to discriminate against another; at the lack of political will on the part of Governments to check religious extremism and to promote intercommunal harmony.

8. CCIA appreciates the excellent work done by the Special Rapporteur, particularly his efforts to promote religious tolerance through engagement and dialogue. It is essential that such dialogue becomes a vehicle in the mutual search for better understanding of each other's perspective, of a better understanding of human life and a just and merciful society.



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Item 11 (c) of the provisional agenda

**CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF:
FREEDOM OF EXPRESSION**

Written statement* submitted by the International Federation of Journalists,
a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[2 February 2000]

* This written statement is issued, unedited, as received from the submitting non-governmental organization(s)

Introduction

The 21st Century is dawning upon an emerging global society. In the context of dramatic and rapid changes in the use of information technology we are witnessing the phenomenal growth of international civil society. Alongside the globalisation of markets and capital we see increased respect for democratic principles, and greater recognition of fundamental human rights. Above all, this new world-wide landscape is giving strength to the essential notion that the abuse of human rights in one part of the world is felt by us all, in every other part of international society. The expression of this emerging global norm cannot be seen better than here, at the Fifty-Sixth Session of the Commission on Human Rights. Yet, in spite of the clear signs of progress movement towards a truly democratic global community continues to be impeded by authoritarianism, repression, and the denial of rights and freedoms of the majority by a few who cling to power through coercion, and the control of information.

We in the world of journalism recognise only too well the importance of the free flow of accurate, reliable and useful information in the creation of democracy and the defence of human rights. We applaud the commitment of the United Nations family to the cause of journalistic freedom.

As Kofi Annan, UN Secretary General, stated on June 2, 1999: "Press freedom is a cornerstone of human rights. It holds governments responsible for their acts, and serves a warning to all that impunity is an illusion."

We could not agree more. The right to receive and impart information is a fundamental human right, as reliable information is the basis upon which democracy, openness, and accountability are founded.

Impeding the free flow of information for political or commercial interests promotes ignorance and uncertainty and, at worse, creates fear in the minds of people. It is in this context that we address you on the harrowing conditions in which many journalists and people who work with them continue to work.

Violations of the rights of journalists are, we believe, actions that threaten all of democratic society. Violence against independent media and censorship continue to flourish in some corners of the world.

But some of the threats to independent journalism come today from more subtle sources. The concentration of power in the economic fabric of journalism threatens pluralism and media quality.

Governments and powerful economic interests cannot, and must not, either directly or indirectly, silence or manipulate media to suit their own interests. The international community at large must denounce and remove all obstacles to freedom of expression. This is not just an expression of journalistic self-interest, although we in the IFJ do speak strongly in defence of our members, but unless we all act together to remove the real and present threats to press freedom everyone in democratic society stands to lose.

Murders

The most brutal silencing of information is through murder. In 1999, no less than 87 journalists and media workers were killed in the course of their work. Journalists increasingly are becoming targets of violence, brutality, and intimidation. In conflict situations, journalists are literally in the front line. We have seen some high profile examples of targeting of media in recent conflicts as in the case of NATO bombing of Radio and Television Serbia and Russian military attacks on media in Chechnya. At the same time, some governments have targeted individual journalists, as in the case of a leading editor brutally assassinated in Belgrade.

At the same time and far from the frontline of conflict, many journalists die at the hands of political groups or criminals or unknown assassins.

When a journalist is killed it is an attack against the entire population, not simply an individual. Whoever can silence the journalist can silence everyone. Unless the authorities make investigations of these killings a priority, there is little hope for the protection of basic human rights. Too often governments and civil authorities fail to make even cursory investigation of the killing of journalists. As a result some perpetrators of these murders believe the killing of a journalist will not have repercussions.

Today the IFJ calls on the United Nations Commission on Human Rights not just to condemn formally all murders of journalists and media workers, but to insist that governments give details of all journalists and media workers killed in their countries and that they report on the steps taken to apprehend the killers.

Impunity: A Lack of Accountability

The lack of accountability for human rights violations committed, or condoned, by agents of the state encourages those to resort to coercion to act with impunity. When agents of the state commit human rights abuses, they are not punished for their actions in many countries.

Sometimes killings of journalists are not regarded as a priority, and low-grade officers are assigned to the investigations. In other instances, vested interests ensure that investigations are slow and inefficient. Whatever the reason, there is a lack of commitment to prosecuting those responsible

A lack of accountability is a direct threat to the rule of law, which is the fundamental basis of a democratic society. Truth is essential for democratic life,

We call on the United Nations Commission on Human Rights to demand prompt, adequate, and effective investigations into all murders of journalists and media workers.

Access to Information

A central issue in creating the conditions for press freedom and unimpeded journalistic inquiry is the right to access to information for all citizens. This is, we believe, essential for democracy to flourish. Governments must ensure that public information is freely provided to journalists and citizens alike. However, in many countries, either no legislation exists to guarantee such access, or there is unwillingness on the part of the authorities to provide access to information. This creates an atmosphere of secrecy and uncertainty and contributes to the difficulties facing journalists.

Journalists from independent media sometimes face discrimination in receiving information from public authorities that tend to favour the government press. In other instances, journalists are required to pay a public official in order to obtain information that should be freely available. This is not a case of fees for administrative charges, but corruption where public servants will not provide the information unless they receive personal payment.

A more insidious consequence of a denial to provide access comes in those countries, which use defamation laws and the courts to imprison journalists who they accuse of rumour-mongering or spreading false information, yet these same governments will often refuse to provide basic information, they will deny access to press briefings to members of the independent media and they do not give interviews to independent journalists. Journalists are kept in the dark and then victimised when they try to shed light on the affairs of government that the authorities would prefer to keep hidden from public view.

The IFJ recommends that the United Nations Commission for Human Rights call on all State Parties to ensure that access to information is guaranteed in law and in practice and that penalties are imposed where such access is denied.

Conclusion

The international community need look no further than the last decade to recognise the fatal consequences of ignoring attacks on journalists and control of the media by governments and powerful interests groups.

During these years we have seen the apparent triumph of democratic values in many corners of the world. But during this time we have recorded the deaths of more than 760 journalists and media staff.

It is time we believe to call a halt to this slaughter. Without concerted action on the part of the international community, governments will continue to feel justified in actions to try to control information and to muzzle journalists. When they do this they contribute to instability and undermine development. The IFJ urges the UN Commission on Human Rights to reiterate the importance of freedom of expression and to defend the right of journalists to exercise their profession free from intimidation and fear.

In particular the IFJ calls on the UN Commission on Human Rights:

- To condemn formally all murders of journalists and media workers;
- To request that governments give details of all journalists and media workers killed in their countries and the steps taken to apprehend the killers;
- To demand prompt, adequate, and effective investigations into all murders of journalists and media workers;
- To call on all State Parties to ensure that access to information is guaranteed in law and in practice and that penalties are imposed where such access is denied.

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**CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF
FREEDOM OF EXPRESSION**

Written statement* submitted by Reporters sans frontières - International
a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[1 February 2000]

* This written statement is issued, unedited, as received from the submitting non-governmental organization.

Press freedom is non-existent in some 20 countries with a total population of 2 billion; in almost 70 others it is precarious. A total of 36 journalists were killed while doing their jobs in 1999. More than 80 of their colleagues are currently in prison for attempting to work without interference.

In Burma, freedom of expression is still non-existent. As of 1 February 2000, at least 12 journalists were rotting in jail. U Win Tin, aged 70, was arrested in 1989 and sentenced to 15 years' imprisonment. San San Nweh, a journalist and writer, was sentenced in 1994 to seven years' imprisonment for "spreading misinformation", and to another three years for passing information about conditions of detention to the United Nations Special Rapporteur for Burma.

In Burkina Faso, the murderers of Norbert Zongo, the editor of the weekly publication L'Indépendant, are still at large. On 13 December 1998 his body was found in his burnt-out vehicle together with the corpses of three of his companions. On 7 May 1999, an independent commission of inquiry set up by the authorities to determine the cause of the journalist's death concluded that "the motive for his murder should be sought in the deceased's inquiries into the death of the driver of François Campoaré", the President's brother. The Commission named six "likely" suspects, all belonging to the Presidential security regiment. As of 1 February 2000, none of these suspects had been charged with the journalist's murder, and François Campoaré had still not been asked to provide evidence by the investigating judge handling the case.

In China, the Government continues to restrict press freedom. In 1999 the authorities banned five publications and held more than 45 foreign journalists for questioning. They have also cracked down on the dissemination of information through the Internet. Two "cyber dissidents" are currently in detention, and the law now states that any Internet user who publishes "State secrets", a particularly vague concept, is liable to imprisonment. As of 1 February 2000, nine journalists were behind bars serving long prison sentences.

In Cuba, where the Constitution stipulates that "freedom of speech is subject to the ends of socialist society", only the official press is tolerated. About 100 independent journalists working for a dozen unofficial news agencies are subject to constant harassment. This repression has been stepped up in recent months. Last year, four independent journalists were forced into exile, 50 were held for questioning and 41 have been placed under house arrest. On 1 February 2000, four journalists were in prison in Cuba.

On 1 February 2000, 10 journalists were behind bars in Ethiopia, the highest number in any African country. Some of them have spent almost three years in prison, where their conditions of detention are particularly harsh.

When it comes to freedom of the press, the Democratic Republic of the Congo is one of the most repressive regimes in Africa. Journalists here have experienced every variety of censorship. Since Laurent-Desiré Kabila came to power in May 1997, more than 100 journalists have been imprisoned for varying periods. Others have been ill-treated, in some cases even

flogged. Media outlets have been seized and temporarily closed down, newspapers burnt and their premises ransacked. Foreign journalists have been deported and international radio broadcasts are prohibited. As of 1 February 2000, two journalists were still in detention in Kinshasa.

Central Asian Governments continue to drift towards totalitarianism. The wave of repression in Uzbekistan reached its height in February 1999 following an unsuccessful attempt to assassinate President Islam Karimov, thought to have been the work of Wahabi Muslims. On 1 February 2000, two journalists were still behind bars for "insulting" officials, and there are widespread accounts of ill-treatment in Uzbek prisons. Freedom of the press is far from secure in Kazakhstan, which has passed tougher laws on private media outlets. The position of the press is precarious in Tajikistan. In Turkmenistan, the press has been completely muzzled following the re-election of President Sapamurad Niyazov as President for life at the end of 1999.

In Serbia, an influential independent journalist was murdered outside his home and one of his colleagues was imprisoned for displaying a placard calling for freedom of the press during the bombing by the North Atlantic Treaty Organization (NATO). The very restrictive Information Act adopted in October 1998 is still being used to muzzle a free press. In 1999, the courts imposed some 30 fines totalling over 20 million dinars (1.7 million euros). At least a dozen independent radio and television stations, six dailies and a weekly newspaper have been forced to close down.

The beginning of 1999 was a dark chapter for the press in Sierra Leone. Between 6 and 12 January 1999, insurgents from the Revolutionary United Front (RUF) engaged in a full-scale operation to eliminate journalists with close links to the authorities. At least nine journalists were killed and many were forced into hiding or obliged to flee the country. More than a dozen journalists were imprisoned in 1999. The Minister of Information has tried on a number of occasions to enact new, more repressive regulations regarding freedom of the press.

There is no free press in the Syrian Arab Republic, which has the highest number of imprisoned journalists in any country in the Middle East. On 1 February 2000, 10 journalists were in detention for non-violent activities such as presumed membership of banned political or human rights groups. They were all tried in camera and sentenced to between 8 and 15 years' imprisonment. Their conditions of detention are particularly harsh, torture and ill-treatment are routine occurrences, and they do not receive the medical care they require.

In Turkey, despite the commitments made by the Government of Bülent Ecevit, pressure of the media has not been relaxed. One journalist has been killed, 7 imprisoned, 26 attacked and 4 tortured by State officials. They include Aydogan Inal, a journalist on the staff of the pro-Kurdish weekly newspaper *Hêvi*. He was forced to undress and sing the Turkish national anthem while being sprayed with icy water. He was then kicked in the testicles and throttled. At least 19 other journalists spent time in prison in 1999. On 1 February 2000 four were still behind bars.

In Tunisia censorship is a key element of the police State established by President Ben Ali. The tight control of the system is founded on fear and corruption. The authorities impose their will through direct repression - such as administrative instructions, seizures and threats - and also through "rewards" such as subsidies for newspapers and advertising budgets. The few journalists who dare to demonstrate their independence are subject to constant harassment by the authorities. A good example is Taoufik Ben Brick, correspondent of the French daily newspaper La Croix: his telephone has been tapped, his mail confiscated, and members of his family have been threatened.

In Viet Nam, the Communist regime retains its iron grip on the country's media. In May 1999, the National Assembly adopted a new Press Act which gives the Ministry of Culture and Information unlimited powers to control the media and the Internet. Journalists are liable to prison sentences for "defamation" and "spreading misinformation". On 1 February 2000, four journalists were behind bars in Viet Nam.



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PROMOTION AND PROTECTION OF HUMAN RIGHTS
STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS

Written statement*/ submitted by the International Federation of ACAT (Action of
Christians for the Abolition of Torture), a non-governmental organization in
special consultative status

The Secretary-General has received the following written statement which is
circulated in accordance with Economic and Social Council resolution 1996/31.

[1 February 2000]

*/ This written statement is issued, unedited, as received from the
submitting non-governmental organization(s).

ABOLITION OF THE DEATH PENALTY

1- The International Federation of Action by Christians for the Abolition of Torture reaffirms as a priority the abolition of the death penalty, believing that it negates the fundamental right to life granted to each human being under Article 3 of the Universal Declaration of Human Rights. No state should claim the right to put an end to human life, regardless of the seriousness of the acts committed.

2- FIACAT regrets that the draft resolution initiated by the European Union, demanding that all states still practising the death penalty should introduce a moratorium on capital punishment with a view to abolishing it entirely, has not been presented by the Third Commission to the United Nations General Assembly during its 54th session. Countries opposing this draft resolution argued against United Nations interference with their sovereignty over criminal justice, or claimed that their cultural, historical and economic diversity was not properly acknowledged. Yet, under the terms of the Vienna Declaration adopted during the World Conference on Human Rights in 1993, "it is the duty of the State, whatever its political, economic or cultural system, to promote and protect all human rights and fundamental freedoms".

3- FIACAT welcomes the initiatives taken to introduce a moratorium on capital punishment. Never have there been more executions carried out than in 1999. The initiatives taken reflect the concerns of the entire international community on this matter. Today more than half the number of all nations no longer apply the death penalty and countries are increasingly taking action to abolish it.

4- FIACAT would like to draw attention to the particularly worrying situation in three influential countries belonging to the international community: China, where the number of death sentences and executions is particularly high (according to our information, at least 2000 death sentences were carried out in 1998); and the only two industrialised nations that still carry out the death penalty, i.e. the United States and Japan. The authorities of those countries often claim that the majority of their populations are in favour of the death penalty. However, FIACAT remains convinced that a public information campaign highlighting the real significance of the death penalty is essential and that the political authorities need to take responsibility in this matter.

5- FIACAT deeply regrets that capital punishment continues to be used against offenders who were minors at the time the offences were committed. It appears that since 1990, nineteen juvenile offenders were executed in six countries, i.e. Saudi Arabia, the United States, Iran, Nigeria, Pakistan and Yemen. FIACAT particularly denounces the position of the United States in this matter. The United States is the only country to have carried out the execution of four of these nineteen minors since 1997 and is about to carry out three more juvenile offender executions in January 2000. This is all the more reprehensible since almost every nation throughout the world has already abolished the death penalty against minors. Equally deplorable is the fact that the death penalty in many countries continues to be carried out mainly against the underprivileged, i.e. the destitute or racial and ethnic minorities. This clearly reveals the discriminatory nature of the application of the death penalty. Nations should give greater weight to preventive measures such as integration and the rehabilitation of offenders.

6- FIACAT regrets that in a number of countries, in particular the United States, the death penalty should be carried out against the mentally disabled. It is clear that the death penalty is no more of a deterrent than any other punishment, a view that is reinforced by the fact that the mentally disabled are incapable of truly understanding the nature of their punishment.

7- FIACAT furthermore denounces the fact that other countries continue to carry out mass and public executions. These include Afghanistan, Vietnam, Saudi Arabia and China. 2600 people are said to have been sentenced to death in China in 1998. In the Philippines 1143 people, including a few minors, are currently awaiting execution. In Saudi Arabia executions are almost systematically carried out in public.

8- FIACAT stresses its concern over the lack of legal guarantees in most countries that still apply the death penalty. For instance, in the United States the Supreme Court ruled that the absence of a defence attorney during a hearing did not represent a violation of constitutional rights. In Saudi Arabia defendants do not have the right to be defended by lawyers and convictions are sometimes only based on a simple confession. President Estrada of the Philippines decided to postpone all executions in September 1999 so that a special committee could examine each convicted prisoner's case. Although this is to be welcomed FIACAT nevertheless regrets that this decision has not been accompanied by effective guarantees. For instance, on 26 October 1999 Pablo Andan, aged 27, was executed by lethal injection without his case having been examined by the special committee, in spite of last minute appeals.

9- Furthermore in some countries many offences that are not particularly reprehensible are nevertheless punishable by death. In China sixty offences, many of which not of a violent nature, carry the death penalty. In Saudi Arabia, a Saudi, Abdel Aziz, could be executed for manslaughter. In Iran, women are always sentenced to stoning for adultery. In the Democratic Republic of Congo a great number of death sentences were pronounced during the year, especially against soldiers belonging to the former Zaire armed forces for armed robbery. Over one hundred executions were denounced.

10- With this declaration FIACAT invites all nations to make an absolute obligation of the respect due to the right to life. It urges all countries to ratify those international and regional instruments on the death penalty that they have not already signed up to, in particular the second optional Protocol relating to the International Pact on Civil and Political Rights and Protocol no 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. FIACAT asks that the Human Rights Commission, as it did last year, should adopt a resolution demanding that nations that still carry out the death penalty introduce a moratorium on capital punishment with a view to abolishing it entirely, and submit such a resolution to the General Assembly during its next session.



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THE RIGHT TO DEVELOPMENT

Written statement* submitted by the International Federation of Rural Adult
Catholic Movements, a non-governmental organization on the Roster

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[29 January 2000]

* This written statement is issued, unedited, as received from the submitting non-governmental organization.

FOOD SOVEREIGNTY: A RIGHT

1. The Commission on Human Rights, in its resolution 1999/79, on the right to development, adopted at its fifty-fifth session, reaffirms that "the gap between developed and developing countries remains unacceptably wide and developing countries continue to face difficulties in participating in the globalization process, and many risk being marginalized and effectively excluded from its benefits".

2. Unfortunately, the situation is going to become even worse as the World Trade Organization (WTO) goes ahead with its plans. Extra regulations imposing free trade could further undermine the food sovereignty of these countries and cancel out the efforts to achieve sustainable development.

The right to food

3. Mr. Eide, in his study on the right to food (E/CN.4/Sub.2/1999/12), clearly underscores the urgent need to ensure food security for all. He defines this as "access by all people at all times to the food needed for a healthy and active life".

4. He recalls that the breakthrough in the right to food occurred at the World Food Summit, held in Rome in November 1996. Government representatives there acknowledged just how intolerable it was that more than 800 million people, particularly in developing countries, did not have enough food.

5. They also recognized that this situation was not a result of lack of food supplies, but of the inadequacy of household incomes, constraints in access to food and the instability of supply and demand. There are sufficient world food resources to feed the entire population of the planet. If this is the case, the solution does not lie in increasing the food supply but in improving access to it by a more equitable distribution of the means of production.

6. It seems clear therefore that in order to implement the right to food, States should take action that reflects their own specific circumstances and should develop strategies, with the participation of the populations concerned, to protect their citizens from hunger.

Food security as an aspect of food sovereignty

7. Food security can thus be considered as a natural consequence of the realization of the right to food. However, in the current context of globalization, which is essentially characterized by an increasing dependence on a deregulated world market and maximum freedom in trade, it would appear necessary, if the right to food is to be realized, to turn to another concept, namely, food sovereignty.

8. Food sovereignty is part of the right to development. That is why for many years the members of the International Federation of Rural Adult Catholic Movements (FIMARC) have been paying particular attention to this issue. Together with farmers' organizations, they have been campaigning around the world for control over the essential choices with regard to the food that people in their countries will be consuming, producing or importing.

9. For these people, food sovereignty is the right to control the production, processing and marketing of food products. The right of nations to feed themselves is a right that must be defended, protected and promoted.

Food security: an unrecognized right

10. This right is today denied and flouted in many ways, such as when:

- WTO tries to control domestic agricultural practices and no longer allows people to choose and run the farming systems that are best suited to their needs;
- Countries are obliged to allow at least 4 per cent of their consumer goods to enter their internal market at lower rates of duty;
- The uncontrolled penetration of imports leads to the development of industrial agriculture at the expense of local food production, which comes up against the dumping of world surpluses;
- Production surpluses sold off cheaply after benefiting from export subsidies destroy the production capacities of countries of the South, disrupting local agriculture and marginalizing farmers in both the North and South;
- Intensive production methods destroy jobs and the environment;
- Farmers grow dependent on agrochemical and agribusiness transnationals or seed companies and food crops are replaced by speculative crops;
- Agrarian reform does not give farmers control of the land they work;
- The sovereign right of States to protect people's health is subordinated to purely commercial considerations;
- It is not possible to apply the precautionary principle to products whose health risks are as yet unknown, such as meat with hormones or products based on genetically modified organisms (GMOs);
- The use of patents is applied to the field of agriculture, thereby privatizing resources that belong to the common heritage of humankind;
- The patenting of living things and the introduction of GMOs in agriculture deprive people of their traditional means of production;
- The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) stipulates that every country can patent living species, and yet 97 per cent of all patents are already in the hands of the industrialized countries.

Food sovereignty: a social issue

11. Nations' food sovereignty and their right to feed themselves are today under serious threat from the WTO proposals. They are at the heart of a social issue where there is a clash of world-views that are clearly pursuing different objectives and which stand for completely contradictory and opposing visions of the world and of relations between human beings and between peoples.

12. For their part, the movements of FIMARC have a view of international trade based on solidarity, justice and cooperation. Their alternative to free trade is fair trade. The alternative they seek to promote is rooted in a sensible form of farming that creates jobs and respects the environment, guaranteeing the food security and sovereignty of each and every nation.

13. They defend the idea that agricultural products are not just goods like any others, since they are absolutely necessary for everybody, and that farmers are not just producers of foodstuffs but also responsible citizens who care about the quality of their environment and their products.

Implementation of the International Bill of Human Rights

14. The States that are members of WTO are also members of the United Nations. In order to preserve the food sovereignty of all peoples and guarantee the right to sustainable and mutually supportive development, FIMARC strongly urges States to bring their international trading practices into conformity with the broad principles of the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights. Only in this way will there be any chance of every nation's right to determine its own agricultural and food policy being respected.



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SPECIFIC GROUPS AND INDIVIDUALS:
MIGRANT WORKERS

Written statement*/ submitted by Human Rights Advocates, Inc.,
a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[4 February 2000]

*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

Violations of Migrant Workers' Rights

1. As migrant workers cross borders in search of a better life for themselves and their families, their lives are increasingly put into jeopardy by forces such as violently overzealous border control policies, exploitative smuggling and trafficking operations, dangerous detention conditions, and substandard working conditions. Human Rights Advocates (HRA), has submitted numerous reports describing violations of migrant workers' rights for many years, but violence against migrant workers continues unabated. The purpose of this statement is to highlight recent violations of migrant workers' rights. This statement will focus on violations of the right to life of migrant workers and the right of migrant workers to be free from cruel, inhuman, or degrading treatment and working conditions.

UNITED STATES

Border Deaths

2. United States border control policies along the 2,000 mile long United States-Mexico border have resulted in the deaths of hundreds of migrant workers who have attempted to cross the border at geographically remote and dangerous places. Since its inception in October 1994, the US government's border control strategy "Operation Gatekeeper" has contributed to the deaths of approximately 458 undocumented immigrants (as of 12/14/99) by forcing them into inhospitable and rugged places.¹

3. This policy has drastically increased the number of migrant deaths, while doing little to change the economic realities that drive migrants to cross the border. While the Immigration and Naturalization Service budget has tripled to nearly \$3.95 billion since 1994, an unwavering apprehension rate of between 1.4 and 1.5 million indicates that the flow of illegal immigrants across the border has not decreased. The immigrant death toll on the other hand has increased approximately 630%.²

4. In addition to death by environmental conditions, migrants also die as a result of violence perpetrated by the Border Patrol. In March 1999, a border patrol agent transporting seven migrants crashed his vehicle, causing his own death as well as the deaths of three undocumented migrants. The vehicle was overloaded and none of the passengers were wearing seatbelts.³ In July 1999, over a four-day period, three immigrants were shot and killed by Border Patrol agents in separate incidents. Each victim had at least two or three bullets in his body.⁴

¹ Claudia Smith, California Rural Legal Assistance Foundation, December 14, 1999, letter to the Special Rapporteur on Migrants.

² Michael Huspek, "Fatal Growing Pains for the Border Patrol", San Diego Union Tribune, July 22, 1999.

³ S. Lynne Walker, "Fog Led to Fatal Border Crash, CHP Report Says," The San Diego Union Tribune, September 9, 1999.

⁴ Michael Huspek, "Fatal Growing Pains for the Border Patrol", San Diego Union Tribune, July 22, 1999.

Detention of Undocumented Migrant Workers

5. Undocumented migrant detainees in prisons have faced serious human rights violations that constitute cruel, inhuman, and degrading treatment. Faced with an overwhelming demand for detention space, the United States Immigration and Naturalization Service housed more than 60% of the 15,000 detainees in its custody in 1998 in local jails throughout the country. The agency has handed over control of its detainees to local jail officials without enforcing basic national and international standards requiring humane treatment. Detainees have been subjected to physical mistreatment, grossly inadequate conditions, and are often mixed with convicted criminals.⁵

6. In July 1999, the Immigration and Naturalization Service removed 34 detainees from Jackson County Jail in Florida following allegations that they had been tortured with electroshock shields while held in four-point restraints. There were also allegations that detainees were subject to beatings and excessive periods of solitary confinement.⁶ Sexual abuse of women in custody is a continuing problem for women in jails and immigration detention centers.⁷

Substandard Health Care and Work Conditions for Migrant Workers

7. California farm laborers, who are primarily migrant workers, fill a critical need in California's \$27 billion agricultural industry. Despite the estimated 1.4 million farm workers and their families in California, little attention has been given to their health care, working conditions, and standard of living.⁸

8. A survey conducted by the United States Department of Labor in 1997 found that 61% of the state's farm worker families live below the federally defined poverty line.⁹ A recent study on the health of migrant farm workers in Michigan indicated that these workers are at a high risk for developing nutrition-related health problems due to the interaction between poverty and a migratory lifestyle. The study also found a serious lack of health services for migrant workers, as migrant clinics serve less than 20% of United States migrant workers.¹⁰

9. Substandard working conditions continue to put migrant workers' lives in jeopardy. In August 1999 a van carrying migrant workers in California crashed, killing thirteen people. Most of the van's fifteen occupants were seated on benches without seat belts, which are not required for certified farm vehicles often used to transport migrant workers, but are required for most citizens.¹¹

⁵ Human Rights Watch, United States: Locked Away: Immigration Detainees in Jails in the United States, Vol. 10, no.1(G), New York, NY (1998).

⁶ Id.

⁷ Human Rights Watch, Human Rights Watch World Report 1999: Women's Human Rights: Violence Against Women (1999) <http://www.hrw.org/worldreport99/women/women2.html>.

⁸ Ernesto Portillo Jr., "Farm Workers' Health Under a Microscope", The San Diego Union Tribune, September 26, 1999.

⁹ Id.

¹⁰ Kowalski, Kimberly, "Nutritional Patterns and Needs of Migrant Farm Workers in Northwest Michigan" Journal of the American Dietetic Association, Feb 1, 1999.

¹¹ George Ramos; James Rainey, "Van Crash Leaves Families Grieving and Wondering" Los Angeles Times, August 11, 1999.

10. The United States government is currently proposing a "guest worker" program despite a failed past attempt which resulted in severely substandard working and living conditions. A controversial measure proposed for the new program would require that workers remain in agriculture for five years before they could obtain permanent legal status, thus severely limiting their rights while in the US.¹²

MALAYSIA

11. In Malaysia, thousands of undocumented migrant workers were forcibly deported in 1998.¹³ In March 1998 more than 11,000 Indonesians were deported from immigration detention camps around the country, causing both injury and death. Many of those deported included asylum seekers and people known to be at risk of human rights violations in Indonesia. Between January 1 and April 30, 1998, the Home Ministry of Malaysia reported 30,000 deportations.¹⁴

THAILAND

12. Throughout the past year immigration officials and police in Thailand arrested and sent to the border tens of thousands of Burmese migrant workers, some of whom were asylum seekers. Over 500,000 displaced persons or "illegal migrants" from Burma remained in Thailand but were vulnerable to arrest and deportation even though many had a valid fear of persecution.¹⁵ Serious overcrowding in immigration detention centers is a major issue. Inadequate medical care, sanitation, food and water were lacking in many places of detention.¹⁶ Women detainees also faced the possibility of sexual abuse. For example, trafficked Burmese women arrested in brothels and detained in Thai prisons faced potential rape by police and the possibility of sale back to the same or another brothel.¹⁷

GERMANY

13. In the past year there have been allegations of police ill-treatment of foreign nationals living in Germany.¹⁸ Foreign nationals reported being stopped at gunpoint, asked for identity papers, and subsequently beaten and verbally abused. A number of asylum-seekers made allegations about police abuse during deportation proceedings. On May 28, 1999, a Sudanese asylum seeker died during an attempt

¹² "Senators Seek Amnesty for Illegal Immigrants", *San Francisco Chronicle*, October 27, 1999.

¹³ The Economist, "Asia Goes on the Dole" Vol. 37; Issue 8065, April 25, 1998.

¹⁴ Human Rights Watch, *Human Rights Watch World Report 1999: Malaysia*, (1999) <http://www.hrw.org/worldreport99/asia/malaysia.html>.

¹⁵ Human Rights Watch, *Human Rights Watch World Report 1999: Thailand*, (1999) <http://www.hrw.org/worldreport99/asia/thailand.html>.

¹⁶ Amnesty International, *Amnesty International Annual Report 1999: Thailand*, (1999) <http://www.amnesty.org/ailib/aireport/ar99/asa39.htm>.

¹⁷ Human Rights Watch, *Human Rights Watch World Report 1999: Women's Human Rights: Discrimination* (1999) <http://www.hrw.org/worldreport99/women/women3.html>.

¹⁸ Amnesty International, *Amnesty International Annual Report 1999: Germany*, (1999) <http://www.amnesty.org/ailib/aireport/ar99/eur23.htm>.

to forcibly deport him from Frankfurt am Main airport. He apparently stopped breathing after being forcibly restrained during take-off.¹⁹

GREECE

14. The treatment of migrant workers in Greece deteriorated significantly in 1999 as the government responded to rises in unemployment and crime by targeting migrants.²⁰ Death also occurred along the border with Turkey. In January 2000, a truck carrying about 80 illegal migrants from Turkey crashed killing 6 people and injuring dozens of others. Police said the truck had been speeding to avoid highway inspections. The crash brought to at least 29 the death toll of migrants killed in similar accidents over the past three months.²¹

SPECIFIC ISSUES OF MIGRANT WOMEN

15. Women migrant workers are especially vulnerable to cruel, inhuman, and degrading treatment, and life risking situations. This may take the form of debt bondage, illegal confinement, enforced isolation, wage withholding, deprivation of identity documents, rape, and other physical abuse. Trafficked women's status as illegal migrant workers leaves them at risk for exploitation by traffickers and employers, as they may be reluctant to approach officials for fear of deportation or incarceration. It is estimated that one to two million women and girls are trafficked annually around the world for purposes of forced labor, forced prostitution, servile domestic labor, or involuntary marriage.²²

RECOMMENDATIONS

16. Human Rights Advocates recommends that the Commission:
17. Ask the Special Rapporteur to visit troubled border regions such as the United States-Mexico border to interview migrants and to develop solutions for preventing deaths along the border.

¹⁹ Amnesty International, Amnesty News Service, Public Statement: Federal Republic of Germany: Death of Sudanese Asylum-Seeker, 107/99, AI INDEX: EUR 23/01/99, (3 June 1999).

²⁰ Human Rights Watch, Human Rights Watch World Report 1999: Greece, (1999) <http://www.hrw.org/worldreport99/women>.

²¹ San Francisco Chronicle, Greece to Boost Security After 6 Immigrant Deaths, Saturday, Jan. 8, 2000.

²² Human Rights Watch, Human Rights Watch World Report 1999: Women's Human Rights - Discrimination (1999) <http://www.hrw.org/worldreport99/women/women3.html>.

18. Ask governments to take the following steps to avoid violations of migrant workers' rights.
- a) Government immigration agencies should not house immigration detainees in facilities intended to hold criminal populations. Governments should consider non-custodial alternatives to detention, especially in the case of minors and those with health concerns. State agencies should maintain current, publicly available statistics on the number of people in detention, the length of detention, and the locations of detention centers.
 - b) Governments should ensure that the same safety regulations and standards that apply to citizens apply to migrants. Governments or non-governmental organizations should conduct studies on the health and standard of living of migrant workers and publish the results.
 - c) Governments should prosecute those who exploit female migrant workers by assisting the women to bring cases against these individuals. States Parties to the *Convention on the Discrimination of All Forms of Discrimination Against Women* should also realize that under Article 6 they are obligated to take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of women.²³
 - d) Should guest worker programs be implemented, governments must ensure that they include fundamental human rights safeguards to protect the lives and well being of migrant workers.
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²³ G.A. res. 34/180, U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/180 entered into force Sept. 3, 1981. (Article 6)



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PROMOTION AND PROTECTION OF HUMAN RIGHTS:
STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS

Written statement*/ submitted by Human Rights Advocates, Inc.,
a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS

A call upon States to work toward abolishing the juvenile death penalty

1. Human Rights Advocates (HRA) supports the work of the Special Rapporteur on extrajudicial, summary or arbitrary executions to abolish the juvenile death penalty. HRA submits the following updated information on juvenile offender executions.
2. Since 1995, Iran, Nigeria, Pakistan and the United States have executed ten persons under the age of 18 at the time of their capital offense. The United States is responsible for seven of those executions.¹ In 1999, the Sub-Commission on the Promotion and Protection of Human Rights reaffirmed condemnation of the juvenile death penalty, as it is prohibited by the International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Rights of the Child (CRC). The Sub-Commission resolution specifically mentions the U.S., Iran, Nigeria, Pakistan, Saudi Arabia, and Yemen, as those who executed juvenile offenders since 1990.²
3. The prohibition against applying the death penalty to juvenile offenders is non-derogable in the ICCPR and CRC. Furthermore, most countries that have not abolished the death penalty have at least done so for juvenile offenders.

United States of America

4. The United States is the most egregious violator of the prohibition against the juvenile death penalty, with 16 juvenile executions since the death penalty was reinstated in 1976.³ *It is particularly appalling that the United States executed three juvenile offenders in the month of January 2000 alone.* In addition to international treaties which render juvenile offenders ineligible for the death penalty, surrounding circumstances cast serious doubts as to the validity of their convictions. Following are summaries of the most recent cases.

Sean Sellers was executed in Oklahoma on February 4, 1999 for a crime committed at age 16. Sellers was diagnosed with multiple personality disorder, however this was not explained to the jury. The United States failed to heed the plea of the U.N. High Commissioner for Human Rights to stop the execution.⁴

Douglas Christopher Thomas was executed in Virginia on January 10, 2000 for a crime committed at age 17. Thomas was convicted of killing his girlfriend, Jessica's, parents. However, two women in separate juvenile facilities reported that Jessica herself had confessed to killing her mother. The EU and American Bar Association intervened on Thomas' behalf. The U.S. Supreme Court, however, refused to consider Thomas' argument that his execution would violate the ICCPR.⁵

Steven Edward Roach was executed in Virginia on January 13, 2000 for a crime committed at 17. In order to persuade the jury of Roach's future "dangerousness," the prosecutor presented evidence of Roach's violations of the law—none of which involved violence. A federal judge described Roach's death sentence as disturbing. The U.N. High Commissioner for Human Rights urged the U.S. to stop Thomas' execution, but to no avail.⁶

Glen Charles McGinnis was executed in Texas on January 25, 2000 for a crime committed at 17. The son of a drug-addicted prostitute, McGinnis suffered severe abuse by his stepfather. McGinnis—an African-American—was convicted by an all-white jury. Pope John Paul II and the EU urged the U.S. to spare McGinnis's life.⁷

5. There are currently 70 juveniles on death row in the United States. Two-thirds of these juveniles are minorities and nearly two thirds of the victims were white.⁸ Thirty-eight states and the Federal government have statutes authorizing the death penalty. Of those jurisdictions, 23 have set the minimum age below 18. Montana recently raised the minimum age from 16 to 18. Only seven U.S. states have actually executed juvenile offenders.
6. The United States ratified the ICCPR in 1992 with a reservation to article 6. The Human Rights Committee concluded that the reservation is incompatible with the ICCPR and recommended that it be withdrawn.⁹ The United States is one of only two countries that has not ratified the CRC. In 1999, the Commission urged countries to prohibit the juvenile death penalty in compliance with the ICCPR and the CRC.¹⁰
7. The United States has blatantly defied the object and purpose behind the ICCPR. In 1999, 16 year-old offender Michael Domingues argued that his execution would violate the ICCPR. In response, the U.S. Solicitor General filed a brief with the United States Supreme Court, stating that the U.S. is not obliged under the ICCPR to abolish the juvenile death penalty. Despite international consensus to the contrary, the Solicitor General maintained that the U.S. reservation on the juvenile death penalty was valid, and the United States Supreme Court refused to review the case.¹¹

Other violators

8. Iran ratified the ICCPR in 1976 and the CRC in 1994. At least one juvenile offender, Kazem Shirafkan, was executed in 1990. Three others were put to death in 1992. Most recently, 17 year-old Ebrahim Oorbazade was executed in October 1999.¹²
9. Although Nigeria ratified the ICCPR, Nigeria violated the treaty in July 1997 when it executed Chiebore Onuoha, a 17 year-old who committed armed robbery at the age of 15. He was executed only two months after he was sentenced to die.¹³

10. Pakistan has yet to ratify the ICCPR, but ratified the CRC in 1990. The last known juvenile to be executed was Shamun Masih, who was hanged in 1997 for crimes he committed at age 14.¹⁴ In 1995, parliament introduced the Child Offenders Bill, which, if passed, would set 16 as the minimum age for death penalty eligibility. Although the legislation is a step in the right direction, it falls short of the standard set by the ICCPR and CRC, which prohibit imposition of the death penalty to persons under 18 at the time of the offense.
11. Saudia Arabia has not ratified the ICCPR, but ratified the CRC in 1996, without reservations. At least one juvenile offender was executed in 1992 for blasphemy.¹⁵ Those awaiting execution could include a group of Pakistani nationals, including children as young as five, held in secrecy on drug offenses.¹⁶
12. Despite its 1993 ratification of the ICCPR, Yemen put Nasser Munir Nasser al'Kirbi to death for murder and robbery; he was only 13 at the time of his execution.¹⁷ Even though Yemen instituted a new Model Penal Code in 1994, which raised the minimum age for death penalty eligibility to 18, a juvenile offender's death sentence from 1995 was upheld by the Supreme Court and ratified by the President in 1997. The juvenile was 16 at the time he committed the offense.¹⁸

Recommendations

13. HRA recommends that the Commission encourage Iran, Nigeria, Pakistan, Saudi Arabia, and the United States to stop defying international norms regarding the juvenile death penalty. Those countries should submit annual reports to the Commission detailing their progress on prohibiting the juvenile death penalty and cooperate fully with the Special Rapporteur.
14. HRA recommends that the Commission request those countries to submit specific information on the following:

Efforts to educate its states and citizens about the requirements of the ICCPR and CRC and the prohibition of the juvenile death penalty;

Progress that each country is making in setting the statutory minimum age limit at 18 for death penalty eligibility and in commuting or overturning current juvenile death sentences;

Efforts to encourage individual states/provinces to implement their own legislation to prevent the execution of juveniles;

Reasons as to why each country is not working towards abolishing the juvenile death penalty, if the country is not doing so.

15. HRA commends Pakistan for the introduction of the Child Offenders Bill and encourages it to enact this legislation and report to the Special Rapporteur on its progress.
16. HRA recommends that the Commission urge Pakistan, Saudia Arabia and the United Arab Emirates to ratify the ICCPR without reservations and urge the United States to revoke its reservation to the ICCPR and ratify both the Second Optional Protocol to the ICCPR and the CRC without reservations.
17. HRA recommends that the Commission request all States to impose a moratorium on the execution of juvenile offenders. HRA further recommends that those States who have not executed juveniles in the past few years be encouraged to change their national legislation to reflect their prohibition of the juvenile death penalty.

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1. Amnesty International, United States of America - Shame in the 21st Century, AI Index: AMR 51/189/99, December 1999.
 2. E/CN.4/Sub. 2/1999/4.
 3. Death Penalty Information Center, Executions of Juvenile Offenders, January 2000.
 4. Id.
 5. Id.
 6. AI, Shame in the 21st Century.
 7. Id.
 8. Streib, Victor, Death Sentences and Executions for Juvenile Crimes, January 1973-June 1999, June 1999, pp. 11-12.
 9. CCPR/C/79/Add. 50 (1995), para. 14.
 10. EC/CN.4/Res/1999/61.
 11. Domingues v. Nevada, 114 Nev. 783, 961 P.2d 1279, cert. denied, 120 S. Ct. 396 (1999).
 12. AI, Shame in the 21st Century.
 13. AI, Death Penalty News, September 1997.

14. AI, The Death Penalty Worldwide: Developments in 1998, ACT 50/04/99.
15. AI Index: ACT 50/05/95.
16. AI Index: MDE 23/07/97, July 1997.
17. AI, Juveniles and the Death Penalty - Executions Worldwide Since 1990, November 1998, ACT 50/11/98.
18. Id. at pp. 26-28.



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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF:
CONSCIENTIOUS OBJECTION TO MILITARY SERVICE

Written statement*/ submitted by Agir ensemble pour les droits de l'homme,
a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is
circulated in accordance with Economic and Social Council resolution 1996/31.

[9 February 2000]

*/ This written statement is issued, unedited, as received from the
submitting non-governmental organization(s).

“VIOLATIONS OF THE CONVENTIONAL PRINCIPLES AND NORMS OF INTERNATIONAL LAW CONCERNING CONSCRIPTS AND SOLDIERS BY THE RUSSIAN ARMED FORCES”

The Union of the Committees of the Soldiers Mothers of Russia (UCSMR), till 1998 - **The Committee of the Soldiers Mothers of Russia**, presents in 89 regions of Russia, organizes legal and medical consultations for conscripts and their parents (more 5 000 peoples per year), solves personal complains concerning violations of Human Rights in the Armed Forces (more than 9000 appeals per year), solves written complains by the military and law enforcement bodies (more 6000 letters per year, more 10000 answers prepared), addresses various State authorities on the matters of Human Rights violations and suggested reforms of legislation (up to 100 outgoing letters per year), participates in investigation and judicial proceedings of civil (violation of conscripts' rights) and criminal cases (about 20 participation in court sessions per year). The UCSMR cooperates with regional committees of the soldiers mothers and NGO, and organizes seminars and conferences.

According to the UN, member-states are bound to respect human rights and fundamental freedoms. The UCSMR informs the Human Rights commission of the United Nations that:

Russia violates principles of the Universal Declaration of human rights, which proclaims the prime value of Human Rights and dignity of person, violates the conventional norms of international law and main principles of humanitarian law.

Without declaration of war, the State of Russia conducts military operations on the Northern Caucasus, without defining officially their legal status and without stipulating limits, as well as the period of limitations of the rights and freedoms of the citizens, which are situated in a combat zone not at their own will.

Russia delegated authority for the settlement of an armed conflict to the militaries, without limitation both large-scale applications of armaments and manpower and voluntary installment of military orders in settlements even outside of a combat zone.

The State of Russia issues arbitrary orders instead of acting according to the laws, violating and **detracting rights of citizens in a peaceful time**, violates the rights of relatives for the information about their sons (does not publish the official reports from a combat zone, casualty lists), allows tortures of soldiers, does not take effective measures for prevention of tortures, protection of victims of tortures and witnesses, and has not issued the laws qualifying tortures as crimes.

About 1 million citizens, during conscription and military service, are annually victims of Human Rights violations. Conscripts' relatives and soldiers are also victims of such violations.

The State of Russia is violating the Universal Declaration of Human Rights - article 3, article 25 part 1, the International Pact about Civil and Political Rights - article 4, 6, 40, the Convention against tortures, the Geneva conventions and Additional Protocols I and II.

The UCSMR receives complaints from every regions of Russia. Soldiers and their parents reports refusal of rendering medical aid, poor meals, impossibility to observe hygiene's norms; impossibility to receive information about servicemen in combat zone, including wounded and ill; impossibility to visit military hospitals; poor organization of postal service for servicemen; impossibility to obtain the social help for servicemen commissioned soldiers, including wounded and handicapped. There are no services of medical, psychological and social rehabilitation.

Citizens of a conscript age and their parents reports negligence of medical examinations of conscripts, not giving the information about their legitimate rights and citizens' right violations in the refusing to replace a military service by alternate civil service – by all branches of Russian executive authorities.

Judicial protection of fundamental laws is not ensured as judges depend on the executive authorities and mostly incompetent violating the Constitution and other laws. More over in war conditions it is impossible for soldiers to appeal to military justice.

President of Russia broke his constitutional obligation as guarantor of the citizens' constitutional right for the life (article 80 of RF Constitution) by issuing a Decree # 1366 of 15.10.99, which has the power of law. By issuing this Decree, he abolished, previously declared in Decrees # 723 of 16.05.96, # 1356 of 11.11.98 and # 1237 of 16.10.99, **a principle of the voluntary of conscripts' participation in actions**, therefore diminishing their main rights for life and personal safety, what is inadmissible in a State which proclaims itself democratic.

BY THE UCSMR UNOFFICIAL DATA MORE THAN 1000 CONSCRIPTS HAVE BEEN KILLED IN ACTIONS AND DIED OF WOUNDS SINCE BEGINNING OF AUGUST, 1999.

Andrushchenko Andrew, conscripted in spring, 1999. Being an orphan, he lived with his grandmother and four sisters. As the only breadwinner he served not far from his home during the first six months. In August he was sent to Dagestan. Killed in action.

Moshtyrev Michael, born in 1979, conscripted in 1998. Wounded in action near Bamut, 13.12.99, was sent to the municipal hospital in Ordgonekitskaya. Died there when operated because of switching-off the electricity.

Kvaskov Ivan, born in 1980, conscripted in 1998. The only son of a handicapped father. The draft commission did not give him the legal conscription' postponement. Was sent to combat zone. Was heavy wounded in a stomach and the right leg, operated. Now there are two handicapped in the family. Nobody looks after them.

Chmelev Aleksey, born in 1981, conscripted in 1999. On the way to Bamut his fighting machine caught fire. Undressed, barefoot and hungry soldiers were picked up by local inhabitant, who notified the parents. *Aleksey* was found by mother with lost vision, illness of liver, in a somber mental condition and with dystrophy. Neighbors helped mother with transport expenses (Siberia-Bamut-Siberia).

Sagalov Andrew, born in 1981, conscripted in spring, 1999. His mother found him in Vladikavkaz' hospital with the disturbed mentality, duodenal ulcer, almost blind, lice-ridden with dystrophy. His family is poor. There are two children except Andrew. The medical staff is indifferent to wounded. There is a lack of medicines in the hospital.

Shuranov Evgueni, born in 1981, conscripted from Moscow. He was beaten and humiliated both by soldiers-veterans and the officers. Was chained up in a room with grilles. Was beaten by the officer Borisov in December 16, 1999. Being in handcuffs he escaped from the unit with broken toes and knee hematoma.

Gorbunov Evgueni, born in 1977, conscripted in 1995. Lost a kidney because of illness. Waiting for kidney transplantation has been in hospital for almost three years. Needs a regular (3 times per week) haemodialysis, one session costs 200 \$. Military physicians ask the UCSMR for help in pushing fulfillment of transplantation. The parents can visit him seldom because of lack of money.

Sapronov Vladimir, born in 1979, conscripted 22.12.97, three months and half before military age and without proper medical examination. Since childhood suffered from psychoneurological disease. From the very first days of service in a military-construction unit was tortured. Got a heavy illness. Three months later was commissioned because unfitness by heals. Diagnosis: a hydrocephalus, cyst of the right temporal - occipital area and resistant neurosis syndrome. Vladimir can't work, study, requires constant supervision.

Efimov Evgueni, born in 1979, conscripted, in November 1997 with a disease of vision. Was directed to interior troops as a sniper! After four months of his service the vision declined in 12 times (!). In March, 1998 was dismissed because of health. Needs treatment, has problems with job.

Churbanov Peter, born in 1980, the member of the Church of ST. Trinity in Moscow, student of Theological Institute. Engaged in work with difficult adolescents. Declared the conscience objection, but was conscripted. Appealed to court for protection of his constitutional right for replacement of military service by non-military service, lost his case.

Krasikov Yuri, born in 1981, a social worker of Social Center Refused military service by conscience motives and asked to consider his service in the Center as alternative service. Was nevertheless conscripted. Yuri appealed for protection of constitutional right to the regional court, and lost his case. The Moscow municipal court confirmed the verdict of the Kunzevo' court in December 20, 1999.

To stop HR violations in the Russian armed forces the State authorities have to abolish the involuntary conscription.

J.Gorjacheva, N.Zhukova, L.Zinchenko, A.Ignatieva, L.Kuklina, V.Melnikova, L.Melnikova, S.Ugarova, M.Fedulova, N.Shvol, A.Shitjakova and others – 40 UCSMR members of different regions.



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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS
IN ANY PART OF THE WORLD

Written statement*/ submitted by Article 19 - The International Centre Against
Censorship, a non-governmental organization on the Roster

The Secretary-General has received the following written statement which is
circulated in accordance with Economic and Social Council resolution 1996/31.

[2 February 2000]

*/ This written statement is issued, unedited, as received from the
submitting non-governmental organization(s).

Despite some seemingly important reforms, notably the adoption of what the government called the "Liberty Laws" in 1990, which included a law setting up the National Commission on Human Rights and Freedoms, the 1996 removal of pre-publication censorship for the written media, and the 1997 incorporation of the Convention against Torture into Cameroonian legislation, there has been little real improvement in respect for human rights in Cameroon over the past decade.

Today, freedom of expression largely remains a mirage in Cameroon. The much-vaunted removal in 1996 of a prior censorship regime has been replaced by a system where the circumstances in which a newspaper can be banned or seized have been extended. No less serious, however, is the ongoing campaign of criminal prosecutions against journalists. Many others have been subject to short-term arrest and other forms of harassment. The government retains complete control over the broadcast media, as regulations that would have allowed private broadcasters to operate have never been adopted. The government of President Paul Biya remains intolerant of political opponents and has taken illegal steps to undermine their support.

PROSECUTIONS AND OTHER ATTACKS ON JOURNALISTS

Recent years have seen a series of prosecutions of journalists in connection with writings which have criticised public officials or public figures close to the government, usually in relation to alleged corruption or some other matter of high public interest. The use of criminal law to punish defamation is unacceptable and in practice is used primarily to restrict political criticism. An example follows:

The government has long targeted Pius Njawé and his newspaper, *Le Messenger*. On 27 February 1996, Pius Njawé and Eyoum Ngangue, editor and journalist respectively of *Le Messenger*, were convicted of defamation of and insult to the President and all members of the National Assembly, and required to pay a heavy fine. On 3 October 1996, the appeal court replaced the fine with prison sentences of six months and one year respectively.

Pius Njawé was actually imprisoned between 29 October and 15 November 1996, when the Supreme Court granted his request for provisional release pending the outcome of his appeal on the merits of the case. This final appeal was rejected on 16 April 1998, at which time Pius Njawé was again in jail in connection with another case (see below). Eyoum Ngangue was imprisoned from 22 January to 31 March 1997. The charges stemmed from an article published on 1 December 1995 criticising the draft amendments to the 1972 Constitution and cartoons satirising the government's preparations for the 1996 OAU Summit and speculating as to possible conflicts within the armed forces.¹ More recently, Pius Njawé was arrested on 24 December 1997 for an article that had appeared on 22 December 1997 in *Le Messager*, suggesting that the President was in ill health. This information came from reliable sources, according to Pius Njawé. On 13 January 1998 he was convicted of disseminating false news – although considerable doubt had been voiced about whether his comments were in fact erroneous – and sentenced to two years imprisonment and a fine. This was reduced to one year on appeal on 14 April 1998. An appeal on point of law (*pourvoi en cassation*) was lodged and the decision on 20 August 1998 by the Supreme Court confirmed his sentence. Finally, on 12 October 1998, after nearly 10 months in jail, Njawé was granted clemency by presidential decree. The clemency did not absolve Njawé of his criminal conviction and left his fine in place. It also did not compensate him for the time spent in prison.² Others who have tried to publicise Pius Njawé's case have themselves suffered reprisals (see below).

This is just one example of the many court cases against journalists. Others are provided in ARTICLE 19's report recent entitled: *HOLLOW PROMISES – Freedom of Expression in Cameroon since 1995*, October 1999. One result of this government strategy has been increasing self-censorship. In its report on Cameroon for 1998, the US State Department noted that "private journalists continued to practice greater self-censorship than they did before the Government's 1994-5 crackdown on the private press".

Such cases represent a dual breach of the international guarantee of freedom of expression. First, the subject matter of the impugned articles is speech which is protected by international law. Indeed, in many cases such subject matter is central to free political debate and an essential component of the public's right to know. Thus any sanction for this material is a violation of the ICCPR. In this regard, ARTICLE 19 considers that any prosecution for the offence of solely disseminating false news is a violation of the right to freedom of expression. Second, a prison sentence for defamation is itself excessive and hence a breach of the guarantee of freedom of expression. Even suspended sentences exert a significant chilling effect on journalists, particularly as any subsequent conviction may bring the sentence into effect. In addition, many journalists, like Evariste Menounga,

¹ ARTICLE 19, *Cameroon: A Transition in Crisis* (London: October 1997).

² Amnesty International Report 1998, 122-5.

- who was arrested in March 1997 and spent two months in custody before being given a suspended prison sentence for disseminating false news and incitement to revolt after an article about disaffection in the armed forces - spend time in detention pending determination of their cases. Another disturbing aspect of these cases is that many spend a very long time on appeal to the Supreme Court. Although the sentence is often suspended pending the outcome of an appeal, during this period the journalist may for obvious reasons be deterred from engaging in legitimate criticism of government. Also, the sentence has often been increased on appeal.

In addition to the legal cases described above, many journalists have been arrested, questioned, detained without charge or subjected to attacks.

In March 1998, Brice Nitcheu, a journalist with the newspaper, *Bafang-Info*, who became involved in a committee set up to demand the release of Pius Njawé, was arrested while trying to fly out of the country with a colleague, Firmin Ngaleu. His documents were searched and the airport commissioner reportedly accused him of organising a campaign to sabotage the Cameroonian government. After a night in custody, he was released, but his passport was confiscated and he was ordered to report to the police every 48 hours. In July 1997 Brice Nitcheu, Firmin Ngaleu and Jean-Michel Nitcheu, who is Vice-President of the opposition party, the SDF, were excluded from Banka, the home area of Brice Nitcheu and Jean-Michel Nitcheu, after a traditional court tried them in their absence for insulting the Banka people and their leader. The traditional court went so far as to rule that when they die, they cannot be buried on Banka territory. The previous month, Brice Nitcheu and three employees at the printing press spent 21 days in prison without charge or trial in an apparent attempt to silence them at the time when the legislative election results were announced. This case also shows the need for a review of customary law so that it adequately reflects Cameroon's international human rights obligations. His full testimony is to be found in ARTICLE 19's October 1999 report.

None of these cases and incidents or the many other similar ones have been the subject of formal inquiries or investigations and none of the journalists involved have been compensated or even received an apology for their mistreatment.

ATTACKS ON THE OPPOSITION

In October 1999, more than 30 civilians were sentenced to terms of imprisonment after an unfair trial before a military tribunal in Yaoundé. They and the 29 defendants who were acquitted had been arrested in March 1997 in connection with a number of attacks on administrative and security officials in several towns in North West Province. Those arrested included members of the Southern Cameroons National Council (SCNC) and an affiliated organisation, the Southern Cameroons Youth League (SCYL). It has been suggested that the attacks, although portrayed by the government as the work of anglophone separatists, may have been carried out with government support either to discredit the SDF - a leading opposition party which draws its primary support from the West Province and the anglophone North West Province - or to provide a pretext for the

authorities to impose tougher security measures in the pro-SDF province as the 1997 elections approached.

The trial raised important concerns. At the first hearing in April 1999, the detailed charges were only available in French, despite the fact that the defendants were from the Anglophone North West of Cameroon; at least ten of those arrested are reported to have died as a result of abuse or lack of medical care and those held are all reported to have been repeatedly tortured and to suffer serious ill health as a result of these conditions; the defendants had no access to defence lawyers throughout the period of pre-trial detention and only limited access once the trial started earlier in 1999. An appeal has been lodged with the Court of Appeal in Yaoundé

SEIZURES, SUSPENSIONS AND BANS - ATTACKS ON THE PRINT MEDIA

A serious restriction on freedom of expression contained in the 1990 Law relating to freedom of mass communication, as amended in 1996³, is the power to seize and ban newspapers.

Pius Njawé's newspaper, *Le Messager*, has frequently been seized, either throughout the whole country or in certain locations. The seizure of a newspaper is clearly a dramatic interference with freedom of expression and ARTICLE 19 is of the view that such measures can rarely, if ever, be justified under international law. The illegitimacy of the seizures in Cameroon is clear from the fact that they are almost always in response to articles which are critical of government. Indeed, seizures often appear to be in the nature of reprisals rather than preventive action, being applied some days after the purportedly offending issue was published. Sometimes a subsequent issue is seized. It is, therefore, quite clear that maintaining public order is not the primary goal. The threat posed by suspensions and bans is exacerbated by the arbitrary fashion in which the law is applied in Cameroon. In some cases suspensions, even when ordered by courts, are not enforced but remain as an ongoing deterrent threat against the newspaper. This was the case, for example, with *Generation* newspaper, suspended for six months on 3 May 1996 at the same time as the managing director was sentenced to five months' imprisonment for defamation and injury. The article in question suggested that an oil company president had been engaged in corrupt activities. In other cases seizures continue even after a court has ordered them to cease. In the case of *Mutations*, a ban imposed by the authorities on 24 June 1997 was lifted by a court on 4 July 1997. Despite this seizures continued.⁴

Article 8 of the 1990 Law provides that every newspaper must have a director. This provision, which may seem reasonably innocuous, was used by the Minister of the Territorial Administration to close down *Le Nouvel Indépendant* in October 1996. The newspaper's director, Ndzana Seme, went into hiding after his sentence for contempt of the head of state and inciting revolution was increased to one year's imprisonment by the

³ Law No 90/052 of 19 December 1990 was amended by law No 96/04 of 4 January 1996.

appeal court on 27 October 1995. He fled Cameroon in February 1996. As a result of these events, the newspaper did not have a director and this was used as a justification for its closure in October 1996.

GOVERNMENT CONTROL OF THE BROADCAST MEDIA

Radio and television broadcasting continues to be a virtual monopoly of the State broadcaster, the Cameroon Radio-Television Corporation (CRTV). Regulations to implement the provisions in the 1990 Law mandating the licensing of private broadcasters have never been promulgated, despite a promise made in Cameroon's 1993 report to the Human Rights Committee to publish them "shortly".⁵ Since these provisions explicitly require private broadcasters to have a licence, it has so far been impossible to establish a private broadcasting company. Due to a loophole in the law, which requires private but apparently not necessarily community broadcasters to have a licence, a Canadian-funded project to set up five rural radio stations has been approved. However, these pose only a minor threat to the government monopoly as they are in remote, thinly populated areas of the country.

The lack of structural and editorial independence is reflected in the partisan approach of the CRTV, which tends to act as a mouthpiece of government rather than as a servant of the public interest. This bias, particularly apparent in its reporting during election periods, is also manifest at other times. The US State Department report notes: "Government reporters rarely criticise the ruling party or portray government programs in an unfavourable light, but sometimes do so implicitly. The government-controlled broadcast media provide broad reporting of the ruling Cameroon People's Democratic Movement (CPDM) functions, while giving relatively little attention to opposition events".

CONCLUSION

The Human Rights Committee considered Cameroon's third period report in October and November 1999. Its concluding observations included nineteen subjects of concern many of which are echoed in ARTICLE 19's October 1999 report. The Human Rights Committee raised concerns:

- about the continued use of torture by police officials and about the absence of an independent organ for investigation;
- about the jurisdiction of military courts over civilians and about the extension of military jurisdiction to offences which are not per se of a military nature;
- that citizens' passports can be seized by the police on the order of the public prosecutor;

⁵ *Second periodic reports of States parties due in 1990: Cameroon*, 5 April 1993, UN Doc.

- that prison conditions are characterised by severe overcrowding, and inadequate food and medical care; and
- about the prosecution and punishment of journalists for the crime of publication of false news merely on the grounds, that the news was false.

The Committee also:

- expressed concern in respect of Cameroon's "follow-up on the Committee's decisions on an individual case *Mukong v. Cameroon* (Case No. 468/1991), where the Committee established a violation of the Covenant. In particular, the Committee does not consider it appropriate to expect a person found to be a victim of a human rights violation to have to submit still more information to the Cameroonian courts in order to obtain compensation.", and
- regretted that the independence of the National Commission on Human Rights and Freedoms is not ensured and that its reports to the Head of State are not made public and that there is no evidence that any remedies have been provided or prosecutions initiated as a result of its work.

The Cameroon government's apparent disregard for international efforts to scrutinise its human rights record was also demonstrated by the fact that the life of two human rights activists, Abdoulaye Math and Semdi Soulaye, who had met the UN Special Rapporteur on Torture on his visit to Cameroon in May 1999, was subsequently threatened by security officials.⁶ At the time of writing, another member of the same human rights organisation, Maurice Tchambou, is held incommunicado by the brigade anti-gang. He was arrested on 21 November 1999 by the gendarmerie and since that time he has twice been handed over to the custody of the brigade anti-gang. His current return to their custody coincided with a visit by two leading members of the organisation to London. His arrest appears to be solely connected to his work as a human rights activist. The brigade anti-gang, a joint military and gendarmerie unit set up to combat armed robbery, was also criticised by the Human Rights Committee, which raised concerns about allegations of widespread extrajudicial executions, particularly in connection with the operation by security forces to combat armed robbery.

ARTICLE 19's KEY RECOMMENDATIONS TO THE UN COMMISSION ON HUMAN RIGHTS

We call upon the Commission to

- to urge the Cameroon government to end all attacks on freedom of expression; and
- to ensure that the Cameroon government urgently implements all necessary reforms to address concerns raised by the Human Rights Committee and any recommendations made by the Special Rapporteur on Torture in his report on Cameroon.